

Migration, Integration, Asyl in Germany 2019: Political and Legal Developments

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Federal Office
for Migration
and Refugees



Migration, Integration, Asylum in Germany 2019

Political and Legal Developments

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



Forschung

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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

EMN
European Migration Network



Summary

This Policy Report 2019 provides an overview of the most important policy discussions as well as political, legal and institutional developments of the year 2019 in the area of migration, integration and asylum in Germany. It examines changes in the general structure of the political system, for example through elections and institutional establishments and further developments. In addition, the topics of legal migration, international protection and asylum, unaccompanied minors and other vulnerable persons, integration and anti-discrimination, nationality and statelessness, border controls and visa policies, irregular migration and smuggling, return, trafficking in human beings as well as migration and development are addressed.

In 2019, there were several major political and **legal developments** (Chapter 2) in the areas of migration, integration and asylum. With the migration package for ‘organising, managing and limiting migration’, the Federal Government implemented several legislative initiatives from the coalition agreement. In addition, the public and political debate in Germany focused on the increasing danger of right-wing extremism and anti-Semitism. At the European level, among other things, the elections to the European Parliament and the inauguration of the new President of the European Commission, Ursula von der Leyen, who resumed the project to further develop European asylum and migration policy, were influential. Furthermore, the debate on the sea rescue of refugees and migrants in the Mediterranean Sea and the subsequent distribution among the EU Member States was important. In this context, in September 2019, the countries Germany, France, Italy and Malta signed a temporary emergency mechanism for the reception of persons rescued from distress at sea, the so-called Malta agreement.

Labour-related migration and other **legal immigration** took place against the backdrop of robust macro-economic development, accompanied by an increase in the number of persons in employment subject to social security contributions, with foreign workers accounting for more than half of all new employment. Thus, the number of highly qualified third-country nationals with an EU Blue Card also increased from 27 241 in 2018 by 14.6% to 31 220. Furthermore, in June 2019, the Skilled Labour Immigration Act (German: Fachkräfteeinwanderungsgesetz) was passed, which came into force on 1 March 2020. Among other things,

the law removed two major obstacles to skilled labour immigration to Germany: the priority check and the Federal Employment Agency’s positive list.

As in previous years, in 2019 **forced migration** to Germany was characterised by declining numbers of asylum applications and comprised 165 938 initial and subsequent asylum applications. During the same period, around 184 000 decisions were made on initial and subsequent applications, with an overall protection rate of 38.2% (2018: 35.0%). In addition, several measures to control and order refugee migration came into force in 2019 with the Act to Remove the Time-Limit of the Integration Act (German: Gesetz zur Entfristung des Integrationsgesetzes), the Second Data Sharing Improvement Act (German: Zweite Datenaustauschverbesserungsgesetz), the Second Act to Improve the Enforcement of the Obligation to Leave the Country (German: Zweite Gesetz zur besseren Durchsetzung der Ausreisepflicht) and the Third Act on the Amendment of the Act on Benefits for Asylum Seekers (German: Dritte Gesetz zur Änderung des Asylbewerberleistungsgesetzes).

In 2019, 4 886 provisional and 3 761 regular custodial placements of **unaccompanied minors** took place by the youth welfare offices in Germany, corresponding to a decrease of 23.6% and 35.3%, respectively (2018: 6 394 provisional and 5 817 regular custodial placements). 2 689 unaccompanied minors applied for asylum in 2019 and the protection rate for unaccompanied minors dropped to 47% compared to a protection rate of 59% in 2018. The Second Data Sharing Improvement Act laid the legal foundation for better registration of minors. Thus, from 1 April 2021, fingerprints will be taken already from the age of six and not only from the age of 14.

In the area of **integration**, 176 445 people started an integration course in 2019. Around 648 million euros from the federal budget were spent on the implementation of integration courses in 2019. The groups most frequently represented among the course participants were nationals from Syria, Romania and Turkey. There were 180 989 admissions to a vocational language course (2018: 165 876). In the framework of the migration package, laws to facilitate integration were passed: the Aliens Employment Promotion Act (German: Ausländerbeschäftigungsförderungsgesetz), the ‘Third Act on the

Amendment of the Act on Benefits for Asylum Seekers' (German: Dritte Gesetz zur Änderung des Asylbewerberleistungsgesetzes) the 'Act on the Suspension of Removal for Vocational Training and Employment' (German: Gesetz über Duldung bei Ausbildung und Beschäftigung) and the 'Act to Remove the Time-Limit of the Integration Act'. In the area of **discrimination**, there was an increase in offences against refugees, their accommodation and aid organisations with 1 872 registered offences (2018: 1 775). The year was marked by a growing awareness of the threat of right-wing extremism and anti-Semitism. In particular, the right-wing extremist-motivated murder of the president of the governmental district of Kassel, Walter Lübcke, and the attack on the synagogue in Halle an der Saale on Yom Kippur received a lot of attention. In this context, the Federal Government adopted new measures against right-wing extremism.

In 2019, around 128 900 people acquired German **citizenship**, whereby the most important third countries among the countries of origin of naturalised persons were Turkey, Iraq and Ukraine. In the same year, 26 390 stateless persons were registered in Germany, corresponding to a small increase of 395 persons compared to the previous year. As part of the Federal Government's migration package, the Nationality Act (German: Staatsangehörigkeitsgesetz) was also reformed: in future, German citizens who possess another citizenship can lose their German citizenship if they take part in terrorist combat operations abroad. Further prerequisites for naturalisation were also standardised: the documentation of identity as well as the 'integration into German living conditions' (German: Einordnung in die deutschen Lebensverhältnisse).

In the area of **border control and visa policy**, on the one hand, the new Regulation on the European Border and Coast Guard came into force, giving the Frontex mandate additional powers in the areas of returns, border controls and cooperation with third countries. In addition, Frontex was given a standing corps, which is to grow from 6 500 people in 2021 to 10 000 in 2027. More than 1.95 million Schengen visas and around 325 000 national visas were issued in 2019.

In the area of **irregular migration and smuggling**, as in previous years, the number of persons registered as obliged to leave the country rose in 2019 by 5.9% to almost 250 000, whereby around 80% were living in Germany with a temporary suspension of removal. Due to the European disagreements on the reception and distribution of people rescued from distress at sea,

the German Armed Forces ended their involvement in the EUNAVFOR MED Operation SOPHIA.

In the area of **returns**, in 2019, as in the previous year, the number of removals exceeded the number of voluntary departures supported by the REAG/GARP programme. Thus, 13 053 persons left with REAG/GARP support, while 22 097 removals were carried out, of which at least 8 423 were Dublin transfers. In addition, the 'Second Act to Improve the Enforcement of the Obligation to Leave the Country' made several legal changes in the area of returns. For example, the obligations to cooperate in the clarification of identity were formulated more clearly and a new category of temporary suspension of removal was created in the case of unclear identity. Several amendments were also made in connection with detention to prepare removal, including the controversial temporary suspension of the separation requirement.

The number of victims of **trafficking in human beings** for the purpose of sexual exploitation officially recorded by the Federal Criminal Police Office in 2018 was 430. Data for 2019 was not yet available at the time this report was completed. In the area of trafficking in human beings for labour exploitation, 63 victims were registered. Two victims were registered in 2018 in the figures on exploitation in relation to begging, which were included in the situation report of the Federal Criminal Police Office for the second time. Eight victims were recorded in connection with exploitation for the commission of crimes. The expert group GRETA ('Group of Experts on Action against Trafficking in Human Beings') published its second evaluation report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. In the report, GRETA welcomed the changes made in 2016 to protect victims of human trafficking, but criticised the continued lack of a strategy to combat trafficking in human beings.

In the area of **migration and development**, the Federal Cabinet adopted the new Africa policy guidelines, including the goals of controlling and shaping migration, reducing the causes of forced migration and supporting the integration of refugees in their first countries of refuge. At the first Global Refugee Forum in December 2019, the Federal Ministry for Economic Cooperation and Development (German: Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung, BMZ) announced new measures to support female refugees and to enable better education for refugee children. In addition, the new programme 'Migration & Diaspora' started in 2019.

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1 Introduction

Structure and content

This Policy Report 2019 provides an overview of the most important political discussions as well as political and legislative developments of the year 2019 in the area of migration, integration and asylum in Germany, but does not claim to be exhaustive. The policy report focuses on developments relating to third-country nationals. It does not deal with provisions and changes relating to the mobility of EU citizens. The report was prepared by the German National Contact Point of the European Migration Network (EMN) at the Federal Office for Migration and Refugees in Nuremberg¹ and aims to meet the information requirements of the EU Community institutions as well as the authorities and institutions of the Member States, thereby supporting policymaking in the EU. The findings gained within the framework of the EMN are made available to the public. The results of the individual national policy reports also flow into a comparative synthesis report, which is published by the European Commission (COM) as the ‘Annual Report on Migration and Asylum’. In addition, ‘Country Fact Sheets’ are compiled which provide a concise overview of developments in the subject areas of migration, integration and asylum in the EU Member States and Norway.

Chapter 1 provides an overview of the structure of the political system and institutions as well as the general structure of the legal system in the areas of migration, integration and asylum in 2019. Chapter 2 outlines subject-relevant policy and legislative developments as well as important political debates. Chapters 3 to 12 are dedicated to concrete political and legal measures in the specific areas. In terms of content, the 16th EMN Policy Report is based on the policy reports of the previous years, although individual structural changes have been made.

The criterion for the selection and weighting of the events and measures was the question of which facts or developments might be particularly relevant for the work of political decision-makers – both at the national and European level. A limitation had to be

made especially with regard to the section on the most important political developments and debates (Chapter 2.2).

Terms and definitions

The terminology used in this report is largely based on the German version of the EMN Glossary 5.0 on Asylum and Migration². Terms that relate specifically to the legal situation in Germany are regularly explained within the text or in footnotes.

1.1 General political and institutional structure in the area of migration, integration and asylum

In the Federal Republic of Germany, legislative and executive powers are divided between the Federal Government and the 16 Länder. In the following, the tasks and fields of activity of the most important actors in the areas of asylum, immigration and integration policy are briefly outlined.

The Federal Ministry of the Interior, Building and Community (German: Bundesministerium des Innern, für Bau und Heimat, BMI) is primarily responsible for this policy field. In addition to preparing legislation, it also deals with European harmonisation and exercises the official and functional supervision over the Federal Office for Migration and Refugees and the Federal Police (German: Bundespolizei, BPOL) as central operational authorities in the areas of asylum, migration, integration and returns. The ‘Joint Centre for Return Assistance’ (German: Gemeinsame Zentrum zur Unterstützung der Rückkehr, ZUR; see Chapter 10) has also worked under the direction of the Federal Ministry of the Interior, Building and Community since 2017.

1 We would like to thank Friederike Müller, Clara Willmann and Mara Ebbers for their supportive work on this policy report as part of their internship at the Research Centre of the Federal Office for Migration and Refugees.

2 The German EMN Glossary is available on the EMN Germany website: www.emn-Germany.de. The EMN glossary in English (version 6.0) as well as in other language versions can be used and downloaded in a web version. Since 2018, the glossary has also been available in an app version for Android and iOS: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en.

In the area of migration and integration, the Federal Ministry of Labour and Social Affairs (German: Bundesministerium für Arbeit und Soziales, BMAS) in coordination with the Federal Ministry of the Interior, Building and Community, is primarily concerned with the fundamentals of the employment of immigrants and their integration into the labour market. The Federal Employment Agency (German: Bundesagentur für Arbeit, BA) with its nationwide network of employment agencies is under the legal supervision of the Federal Ministry of Labour and Social Affairs. The Federal Employment Agency also gives its consent or refusal when third-country nationals apply for a residence permit for gainful employment, provided that the professions concerned require consent (see Chapter 3).

Within the area of responsibility of the Federal Foreign Office (German: Auswärtiges Amt, AA), the diplomatic missions abroad are responsible for passport and visa matters abroad and are thus the first point of contact for third-country nationals who are not allowed to enter Germany without a visa, before they enter the country. In addition, for several years, the Federal Foreign Office has conducted various information campaigns in third countries on the topic of migration with the aim of refuting rumours spread by smugglers as well as providing information on legal access routes and the asylum system in Germany for migrants and asylum seekers (see Chapter 8, 9).

Since 2016, the Federal Ministry for Economic Cooperation and Development has been expanding its work in the area of voluntary return and reintegration of third-country nationals. Until then, the Federal Ministry for Economic Cooperation and Development was primarily involved in supporting the (temporary) return of skilled workers, which is now being supplemented by closer cooperation with the Federal Ministry of the Interior, Building and Community and by programmes to support return and reintegration, as well as an extension of the target groups to include persons obliged to leave the country (see Chapter 12). The actual implementation of the development policy projects of the Federal Ministry for Economic Cooperation and Development is entrusted to so-called implementing organisations. The Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is primarily responsible for the area of 'Migration and Development'. It defines itself as a "service provider for international cooperation for sustainable development and international education work" and is active in around 120 countries (GIZ 2019a).

The Federal Government Commissioner for Migration, Refugees and Integration is appointed by the Federal Government. Since 2005, the office has held the rank

of a Minister of State in the Federal Chancellery. The commissioner supports the Federal Government in the further development of its integration policy and is to be involved in relevant legislative projects. Other tasks include the further development of the conditions for the most harmonious co-existence possible between immigrants and Germans and between different groups of immigrants (Section 93 of the Residence Act (German: Aufenthaltsgesetz, AufenthG)).³

The Commissioner of the Federal Government for Resettlement Issues and National Minorities is based at the Federal Ministry of the Interior, Building and Community. The office was created in 1988. They are responsible for the coordination of all resettlement-related measures (see Chapter 3.4, 5.2.2). For national minorities, the commissioner acts as the central contact person and also supports the remaining Germans in the areas of origin of the ethnic German resettlers (German: Spätaussiedler). In addition, the commissioner co-chairs the existing government commissions on affairs concerning the German minorities (BMI 2019a).

The Federal Office for Migration and Refugees is a higher federal authority within the area of responsibility of the Federal Ministry of the Interior, Building and Community and performs a variety of tasks in the areas of migration, integration, asylum and return, which result, among other things, from the Residence Act and the Asylum Act (German: Asylgesetz, AsylG). In its branch offices, the staff examine the right of asylum seekers to asylum, which is constitutionally enshrined in Germany, and conduct all asylum procedures in Germany, including the Dublin procedure for determining responsibility in the asylum procedure, as well as revocation examinations. In addition, the Federal Office coordinates the humanitarian reception programmes and procedures of the Federal Government and the Länder as well as Germany's participation in the resettlement programmes of the UNHCR and the EU (see Chapter 4). In the area of integration, the Federal Office for Migration and Refugees is responsible for integration courses and vocational language courses, migration counselling and project funding (see Chapter 5.2.2). Added to this are, among other things, applied or policy-related migration and integration research, the promotion of voluntary return and reintegration, and, since 2019, passport substitute procurement by way of administrative assistance (see Chapter 10).

The foreigners authorities (German: Ausländerbehörden, ABH) in the administrative districts and

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

independent cities are responsible for all residence and passport law measures under the Residence Act and the implementation of other immigration law provisions. This also includes the issuing of residence permits, including decisions on removals and their organisation, as well as the assessment of obstacles to removal that lie outside the competence of the Federal Office for Migration and Refugees. Twice a year, an exchange of experience takes place between the foreigners authorities of the large cities.

The Federal Police is a police force within the area of responsibility of the Federal Ministry of the Interior, Building and Community. It is responsible for the protection of the federal territory by the border police (border protection) in order to prevent unauthorised entry and to combat the smuggling of migrants. Border protection comprises police surveillance of the borders, police control of cross-border traffic, including checking the border crossing papers carried and the authorisation to cross the border. The tasks of the Federal Police result from the Federal Police Act (German: Gesetz über die Bundespolizei, BPolG) and other legal provisions, for example the Residence Act (Section 71 subs. 3 of the Residence Act) or the Asylum Act (Section 18 of the Asylum Act). In the context of the return of third-country nationals residing illegally in the territory of the Federal Republic of Germany, the Federal Police is responsible, among other things, for the coordination of escorted removals by air and cooperates closely with other authorities, in particular with the foreigners authorities (see Chapter 10).

The Federal Office of Administration (German: Bundesverwaltungsamt, BVA) is responsible – in addition to a large number of other administrative tasks in the federal area – for the entry and admission procedures of ethnic German resettlers. Furthermore, it provides the foreigners authorities and diplomatic missions with a partial data stock of the Schengen Information System (SIS)⁴ and all entitled authorities with access to the VISA Information System (VIS) via the central register portal, and has been entrusted by the Federal Office for Migration and Refugees with the register operation of the Central Register of Foreign Nationals (German: Ausländerzentralregister, AZR), consisting of the general data stock and the visa file. In addition, since 2018, in the context of the new provisions on family reunification with beneficiaries of subsidiary

protection, it has selected up to 1 000 beneficiaries of reunification per month from among the applicants who fulfil the prerequisites (see Chapter 4). The Federal Office of Administration is also responsible for the distribution procedure for unaccompanied minors. In addition, it is the citizenship authority for people living abroad, for example when applying for release from German citizenship (BVA 2019a).

1.2 General legal structure in the area of migration, integration and asylum

1.2.1 Legislative powers of the Federal Government and the Länder

With regard to the legislative powers, the responsibilities are divided between the Federal Government and the Länder. Migration-related issues such as citizenship, freedom of movement, immigration and emigration, passport matters, registration and identity document matters, the right of residence and settlement as well as aspects of integration are regulated in laws at the federal level. Likewise, all overarching laws in the area of asylum and displaced persons were passed nationwide.⁵ Significant migration-related policy fields which are almost exclusively within the competence of the Länder are education, research and the police system.

In addition, the Länder especially have a long-term influence on the enforcement activities of the foreigners authorities, i.e. the administrative implementation, through ordinances and administrative regulations. The organisation of accommodation for asylum seekers and the granting of cash and non-cash benefits to secure their livelihood is also the responsibility of the Länder. In addition, the Länder are partly responsible for legislation in the area of integration: Baden-Wuerttemberg, Bavaria, Berlin and North Rhine-Westphalia each have an Integration Act. Other Länder have adopted integration plans or integration concepts. In addition, the Länder influence federal legislation through extensive rights of participation, in particular through the Bundesrat.

At the Länder level, responsibility for asylum and migration law issues usually lies with the ministries of the interior, whereas responsibility for integration issues

⁴ The Federal Criminal Police Office (German: Bundeskriminalamt, BKA) in Wiesbaden assumes the task of the national central office of the SIS, the so-called SIRENE, which exists in the individual Member States. It is responsible for the national and international exchange of intelligence in connection with SIS searches (BKA 2019; EU 2013).

⁵ See Art. 73 and 74 of the Basic Law (German: Grundgesetz, GG) on the exclusive and concurrent competences of the Federal Government.

lies with various ministries (e.g. the ministries of social affairs, family affairs or justice). An important place for policy formulation is thus also the Standing Conference of the Ministers and Senators of the Interior of the Länder (German: Ständige Konferenz der Innenministerinnen und Innenminister sowie Innensenatorinnen und Innensenatoren der Länder, IMK), in which the Federal Minister of the Interior, Building and Community (German: Bundesminister des Innern, für Bau und Heimat) participates in an advisory capacity. The conference takes place twice a year, whereby the unanimously adopted resolutions have a highly binding effect as political recommendations and are taken into account in legislation and administrative practice both at the Länder and federal level. In 2019, the 210th meeting of the Senators of the Interior of the Länder was held in Kiel from 12 to 14 June and the 211th meeting of the Senators of the Interior of the Länder was held in Lübeck from 4 to 6 December.

Questions of labour-related migration and the integration of immigrants into the labour market are also addressed by the Conference of Ministers and Senators for Labour and Social Affairs of the Länder (German: Konferenz der Ministerinnen und Minister bzw. Senatorinnen und Senatoren für Arbeit und Soziales der Länder, ASMK), which – similar to the Standing Conference of the Ministers and Senators of the Interior of the Länder (IMK) – serves to cooperate and coordinate the interests of the Länder in the area of labour and social policy. The annual Conference of Ministers and Senators for Labour and Social Affairs of the Länder took place in 2019 from 27 to 28 November in Rostock.

In addition, the ministers and senators of the Länder responsible for integration meet regularly for consultations and to coordinate political projects in this area (Integration Ministers' Conference - Integrationsministerkonferenz, IntMK). The 14th Integration Ministers' Conference took place in Berlin from 11 to 12 April 2019.

1.2.2 Laws and regulations at the federal level

The foundations for the migration and asylum law applicable in Germany can be found in international law, European Community law as well as German constitutional law and formal simple law.

The Residence Act is the most important legal basis for the areas of entry, residence and employment of third-country nationals. For the first time, it determines the minimum statutory framework for state provisions to promote integration, which mainly includes language and orientation courses.

Art. 16a para. 1 of the Basic Law grants politically persecuted persons a right to asylum. The assessment of the claim takes place within the framework of the asylum procedure on the basis of the Asylum Act.

The provisions of the Asylum Act are based, among other things, on the 'Convention of 28 July 1951 Relating to the Status of Refugees' (Geneva Refugee Convention – CRSR) and the EU Qualification Directive (Directive 2011/95/EU).⁶ These provisions contain the conditions for granting protection as a refugee and subsidiary protection (Sections 3 and 4 of the Asylum Act). The regulations on granting residence permits to persons entitled to asylum, recognised refugees, beneficiaries of subsidiary protection and persons who have been determined to be ineligible for removal can be found in 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 (German: Asylbewerberleistungsgesetz, AsylbLG) is the legal basis for support payments to asylum applicants during the asylum procedure as well as to other foreigners whose residence is not permanent (such as persons whose removal has been suspended).

The Central Register of Foreign Nationals Act (German: Ausländerzentralregistergesetz, AZRG) is the most important legal basis for the administration of official data on foreign nationals.

The acquisition of German citizenship is regulated by the Nationality Act. Among other things, it determines the conditions under which immigrants can be naturalised, the conditions under which children born in Germany to foreign parents receive German citizenship and the extent to which multiple citizenship is possible.

The General Equal Treatment Act (German: Allgemeine Gleichbehandlungsgesetz, AGG) establishes a comprehensive legal framework for protection against discrimination not only by state actors (as provided for in the Basic Law), but also by private actors. The aim of the law is to prevent or to stop discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation.

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.

Below the level of federal laws, a number of ordinances and administrative provisions have been issued that specify the legal framework in the area of residence, employment and integration of immigrants as well as the support of and procedures for dealing with asylum applicants:

The Ordinance governing residence (German: Aufenthaltsverordnung, AufenthV) regulates detailed matters in connection with entry and residence in the federal territory, with fees and procedural regulations regarding the issuance of residence permits.

The Ordinance on the admission of foreigners for the purpose of taking up employment (German: Beschäftigungsverordnung, BeschV) regulates the procedures for admitting third-country nationals to employment who do not have access to the labour market by law.

The Integration course ordinance (German: Integrationskursverordnung, IntV) contains details on the implementation of integration courses pursuant to the Residence Act, including conditions of participation, data transfer, fees and the basic structure of the courses, course duration as well as course content. It also regulates the admission procedures for public and private course providers.

The Ordinance on determining asylum jurisdiction (German: Asylzuständigkeitsbestimmungsverordnung, AsylZBV) contains provisions on the powers and responsibilities of the most important operational authorities in the asylum procedure (Federal Office for Migration and Refugees, border authorities, Federal Criminal Police Office).

The Naturalisation test ordinance (German: Einbürgerungstestverordnung, EinbTestV) regulates the test procedure for naturalisations.

The General administrative regulation to the Residence Act (German: Allgemeine Verwaltungsvorschrift zum Residence Act, AVwVAufenthG), serves to standardise administrative practice in the application of the Residence Act throughout Germany. It establishes “binding standards for the interpretation of indeterminate legal terms and existing discretionary powers” (Deutscher Bundesrat 2009: 2).

1.2.3 Legislative powers and regulations at EU level

Where the EU has legislative powers, it can primarily pass regulations and directives. Regulations are directly

applicable in the Member States without the need for an act of transposition. Directives have to be transposed into national law and thus become part of national regulations such as the Residence Act or the Asylum Act. Directives contain a deadline for transposition into national law and give Member States more freedom on how to integrate the relevant requirements into national law. The European Union has legislative powers in various areas of migration policy.

Border controls and visa provisions

- Schengen Borders Code (Regulation (EU) No. 2016/399)⁷,
- Visa Code (Regulation (EC) No. 810/2009)⁸,
- Regulation on the European Border and Coast Guard (Regulation (EU) 2016/1624)⁹.

Common European Asylum System

- Dublin III Regulation (Regulation (EU) No. 604/2014)¹⁰,
- Eurodac II Regulation (Regulation (EU) No. 603/2013)¹¹,
- Qualification Directive (Directive 2011/95/EU)¹²,

7 Regulation (EU) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

8 Regulation (EC) No. 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) 2016/1624 of the European Parliament and of the Council of 14. September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

10 Regulation (EU) No.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.

11 Regulation (EU) No.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) No 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) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice.

12 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.

- Asylum Procedures Directive (Directive 2013/32/EU)¹³,
- Reception Directive (Directive 2013/33/EU)¹⁴.

Legal migration

- Family Reunification Directive (Directive 2003/86/EC)¹⁵,
- Long-term Residence Directive (Directive 2003/109/EC)¹⁶,
- Blue Card Directive (Directive 2009/50/EC)¹⁷,
- Seasonal Workers Directive (Directive 2014/36/EU)¹⁸,
- Intra-Corporate Transfer Directive (Directive 2014/66/EU)¹⁹,
- REST Directive (Directive (EU) 2016/801)²⁰.

Irregular migration

- Return Directive (Directive 2008/115/EC)²¹,
- Sanctions Directive (Directive 2009/52/EC)²²,
- Victim Protection Directive (Directive 2004/81/EC)²³.

-
- 13 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.
- 14 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.
- 15 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.
- 16 Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.
- 17 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.
- 18 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 of employment as seasonal workers.
- 19 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.
- 20 Directive (EU) 2016/801 of the European Parliament and of 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.
- 21 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
- 22 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.
- 23 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

At a glance

- In the European Parliament election, the European People's Party (EPP) was elected the strongest party and won 24.2% of the seats. Ursula von der Leyen was elected the new President of the EU Commission.
- Elections to the Land parliament were held in Bremen, Brandenburg, Saxony and Thuringia, in which migration issues also played a role.
- The year 2019 was marked by several acts of right-wing extremist violence, including the attack on the synagogue in Halle an der Saale and the murder of the district president of Kassel, Walter Lübcke (CDU).
- As part of the migration package, several fundamental laws were passed in the areas of legal migration, asylum, integration and return, including the Skilled Labour Immigration Act and the 'Second Act to Improve the Enforcement of the Obligation to Leave the Country'.
- Due to continued disagreements between EU Member States on the reception and distribution of people in distress in the Mediterranean Sea on their way to Europe, the activities of Operation 'Sophia' were largely suspended in 2019. In September 2019, in the presence of the Finnish Council Presidency and the EU Commission, Germany, France, Malta and Italy agreed on a temporary emergency mechanism to distribute people rescued from distress at sea.
- After the then President of the EU Commission, Jean-Claude Juncker, had declared the negotiations on a new Dublin Regulation to have failed at the end of 2018, in autumn 2019 the new Commission President, Ursula von der Leyen, announced a new migration pact for 2020.

2.1 General political developments

European Parliament Election

In the 2019 European elections, which were held in the Member States of the European Union from 23 to 26 May 2019, the parliamentary group of the European People's Party (Christian Democrats) (EPP) won 24.2% of the seats, making it the strongest party (European Parliament 2019a; see Figure 1). No governing coalitions are formed in the European Parliament, but there is a loose alliance between the Christian Democrats and Socialists and Democrats (EPP and S & D) and the liberal Renew Europe Group (Beisel/Kolb 2019). Due to the postponement of the Brexit date, contrary to the original planning, the United Kingdom took part in the European elections.

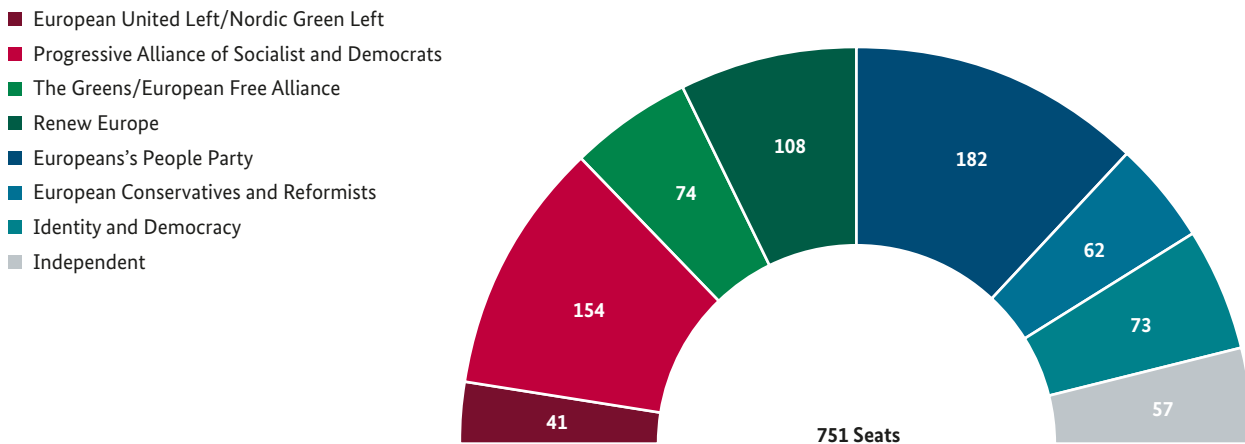
Election of the President of the European Commission

On 16 July 2019, the European Parliament elected Ursula von der Leyen as President of the next European Commission (COM). She was elected with 383 votes out of 733 cast (Europäisches Parlament 2019b; Beisel/Kolb 2019). The Commission President is elected for five years of office. She took office on 1 November 2019.

In the new European Commission, Margaritis Schinas was appointed Vice-President in charge of 'Promoting our European Way of Life' and Ylva Johansson was appointed Commissioner for Home Affairs. Both are responsible, among other things, for further developing European asylum and migration policy (KOM 2019a; KOM 2019b).

Parliamentary elections in Bremen

In the Bremen parliamentary elections on 26 May 2019, the Christian Democratic Union of Germany (German: Christlich Demokratische Union Deutschlands, CDU) was elected the strongest party with 26.7% of the vote. It gained 4.3 percentage points compared to the 2015 parliamentary elections. The Social Democratic Party of Germany (German: Sozialdemokratische Partei

Figure 1: Composition of the European Parliament at the Constituent Session on 2 July 2019

Source: European Parliament 2019a.

Deutschlands, SPD) lost its position as the strongest party and received 24.9% of the votes, losing 7.9 percentage points. This was followed by Alliance 90/The Greens (German: Bündnis 90/Die Grünen) with 17.4%, The Left Party (German: Die Linke) with 11.3%, Alternative for Germany (German: Alternative für Deutschland, AfD) with 6.1% and Free Democratic Party (German: Freie Demokratische Partei, FDP) with 5.9% (Land Bremen 2019). SPD, Alliance 90/The Greens and The Left Party agreed to form a coalition. Andreas Bovenschulte (SPD) became the mayor of Bremen. Ulrich Mäurer (SPD) remained Senator for the Interior and Anja Stahmann (Alliance 90/The Greens) became Senator for Social Affairs, Youth, Women, Integration and Sport.

In the coalition agreement, the coalition partners agreed on several measures in the area of migration and integration, including (SPD/Bündnis 90/Die Grünen/Die Linke 2019):

- intensive German language promotion,
- early integration of children accommodated in arrival centres,
- new reception programme of the Land for people rescued from distress at sea
- and regularisation of the stay of irregular residents who fulfil certain requirements by means of regulation of old cases based on a deadline.

Elections to the Land parliament in Brandenburg

At the elections to the Land parliament in Brandenburg on 1 September 2019, the SPD was elected as the strongest party with 26.2% of the vote, which corresponds to a loss of 5.7 percentage points compared

to the elections to the Land parliament in 2014. The second strongest party was the AfD with 23.5% of the vote, which thus recorded a gain of 11.3 percentage points. They were followed by CDU with 15.6%, Alliance 90/The Greens with 10.8%, The Left Party with 10.7% and Brandenburger Vereinigte Bürgerbewegungen/ Freie Wähler (BVB/FW) with 5.0%. The coalition of the SPD and The Left Party was thus voted out. Initially, exploratory negotiations took place between the SPD, Alliance 90/The Greens and The Left Party as well as between the SPD, CDU and Alliance 90/The Greens. The negotiations between the SPD, Alliance 90/The Greens and The Left Party failed and the parties SPD, CDU and Alliance 90/The Greens agreed to form a coalition with Dietmar Woidke (SPD) as Minister President (Lehmann 2019). Michael Stübgen (CDU) became Minister of the Interior and Municipal Affairs and Ursula Nonnenmacher (Alliance 90 / The Greens) became Minister for Social Affairs, Health, Integration and Consumer Protection.

In the coalition agreement, the coalition partners agreed on several measures in the area of migration and integration, including (SPD/CDU/Bündnis90/Die Grünen 2019):

- humanitarian admission programme for vulnerable persons,
- Land programme for voluntary return,
- limitation of the duration of stay in the central foreigners authority of the Land to a maximum of six months
- and the establishment of a task force for coordination with regard to persons who are enforceably required to leave the federal territory and who pose a threat to public security.

Elections to the Land parliament in Saxony

In the elections to the Land parliament in Saxony on 1 September 2019, the CDU was elected the strongest party with 32.1% of the vote. It thus recorded a loss of 7.3 percentage points. The AfD was elected the second strongest party with 27.5% of the vote, which corresponds to a gain of 17.8 percentage points compared to the previous election in 2014. They were followed by The Left Party with 10.4%, Alliance 90/The Greens with 8.6% and SPD with 7.7%. With 4.5% of the vote, the FDP failed to enter the Land parliament (Freistaat Sachsen 2019). CDU, Alliance 90/The Greens and SPD agreed to form a coalition and Michael Kretschmer (CDU) became Minister President. The Saxon State Ministry for Social Affairs and Social Cohesion, with its Minister Petra Köpping (SPD) is responsible for unaccompanied minors as well as for asylum policy under social law (SMS 2020). The Minister of the Saxon State Ministry of the Interior is Roland Wöllner (CDU). In addition to its function as the highest foreigners authority in Saxony, the Ministry has various tasks concerning refugees and migrants, including matters of reception, residence and accommodation (SMI 2020).

In the coalition agreement, the coalition partners agreed on several measures in the area of migration and integration, including (CDU/Alliance 90/The Greens/SPD):

- acceleration of the recognition of educational qualifications acquired abroad,
- review of the residence requirement with regard to the promotion of integration,
- development of a guide on return practice
- and submission of a Saxon integration and participation Act (German: Sächsisches Integrations- und Teilhabegesetz).

Elections to the Land parliament in Thuringia

On 27 October 2019, elections to the Land parliament were held in Thuringia. The Left Party became the strongest party with 31.0% of the vote. The AfD achieved 23.4% and thus became the second strongest party. They were followed by CDU with 21.7%, SPD with 8.2%, Alliance 90/The Greens with 5.2% and FDP with 5.0% (Freistaat Thüringen 2019). Thus, the previous government of the Land made up of The Left Party, SPD and Alliance 90/The Greens lost its majority. By the end of the documentation period of this report (January to December 2019), it had not yet been possible to form a coalition.

2.2 Overview of important political developments and debates in the area of migration, integration and asylum

The beginning of the year and the further course of political and discursive developments in the area of migration, integration and asylum policy in 2019 were shaped by various national, European and international events. At the national level, particular mention should be made of the increase in anti-Semitic and racist acts of violence, which led to increased attention being paid to right-wing extremist radicalisation and racism in society. In addition, within the framework of the so-called migration package, several legislative amendments were passed, among other things in the areas of legal migration (see Chapter 3.1.2), asylum and international protection (see Chapter 4.1.2.2, 5.1.2), integration (see Chapter 6.1.1), return (see Chapter 10.2.2) and citizenship (see Chapter 7.2).

At the European and international level, in addition to the various wars and conflict hotspots around the world, especially the debate on the situation of asylum seekers on the migration routes in the Mediterranean and the associated sea rescue, as well as the announcement of a new EU migration pact by the EU Commission newly elected in 2019, comprised important discursive events.

Increasing danger from right-wing extremism and racism

After the Federal Office for the Protection of the Constitution (German: Bundesamt für Verfassungsschutz, BfV) had already registered an increase in racist and anti-Semitic acts of violence with a right-wing extremist background in 2018, 2019 was also marked by right-wing extremist acts of violence, including the murder of Kassel's governmental district president Walter Lübcke on 1 June 2019, who had spoken out in favour of admitting refugees, and the attack on the synagogue in Halle and der Saale on 9 October, in which two people were murdered (see Chapter 6.2.2). In response, the Federal Minister of the Interior, Horst Seehofer (CSU), announced that he intended to take stronger action against right-wing extremism and adopted a 'package of measures to combat right-wing extremism and hate crime' (BMI 2019b). Among other things, the Federal Criminal Police Office and the Federal Office for the Protection of the Constitution are to be strengthened by 300 additional positions

each, a national central office against hate crime is to be established at the Federal Criminal Police Office and a new department set up at the Office for the Protection of the Constitution (German: Verfassungsschutz) to better investigate and follow-up possible right-wing extremist tendencies in the federal authorities (BMI 2019c).

The statistical recording of right-wing extremists was also part of the debate. Due to the 12 700 right-wing extremists classified as violence-oriented, the Federal Office for the Protection of the Constitution and the Federal Criminal Police Office assume that the number of right-wing extremists likely to threaten public safety (as of October 2019: 43) is underestimated and have each announced plans for more precise monitoring and combating (BKA 2020a; Götschenberg/Schmit 2019; Klaus 2019; Musharbash 2019). A uniform instrument for recording right-wing extremists likely to threaten public safety, which already exists for the Islamist area, is being developed (Deutscher Bundestag 2019a: 2).

In 2019, there was also a great deal of discussion about how political parties deal with right-wing extremists among their members. In 2018, the Federal Office for the Protection of the Constitution had already begun to collect information on the AfD and its sub-organisations in a preliminary examination phase and to evaluate it with regard to the extent to which the party pursues unconstitutional objectives (BfV 2019a). In the middle of January 2019, the examination result was announced: For the two sub-organisations of the AfD 'Der Flügel' and 'Junge Alternative', it was established that "there are sufficiently weighty factual indications of endeavours against the free democratic basic order" and they were thus "classified as suspicious cases" (BfV 2019b).

Debate on the migration package

After partly controversial discussions in the German Bundestag as well as in the public, on 7 June 2019, a total of seven laws were passed as part of the so-called migration package, which implement the proposals of the coalition agreement (BMI 2019d; for more information on the 'Masterplan Migration' see EMN/BAMF 2019: 22):

- the Skilled Labour Immigration Act²⁴ (entry into force: 1 March 2020; see Chapter 3.1.2),

- the 'Second Act to Improve the Enforcement of the Obligation to Leave the Country'²⁵ (also referred to as the 'Orderly Return Act' (German: Geordnete-Rückkehr-Gesetz) entry into force: 21 August 2019; see Chapter 10),
- the 'Act to Remove the Time-Limit of the Integration Act'²⁶ (entry into force: 12 July 2019; see Chapter 4.1.2.2, 6.1.1),
- the 'Act on the Suspension of Removal for Vocational Training and Employment'²⁷ (entry into force: 01 January 2020; see Chapter 3.1.2, 6.1.1),
- the 'Second Data Sharing Improvement Act'²⁸ (entry into force: 09 August 2019; see Chapter 4.1.2, 5.1.2, 10),
- the 'Third Act on the Amendment of the Asylum Seekers' Benefits Act'²⁹ (entry into force: 01 September 2019; see Chapter 4.1.2.2)
- and the Aliens Employment Promotion Act³⁰ (entry into force: 01 August 2019; see Chapter 3.1.2.2, 6.1.1).

In addition, another legislative proposal of the migration package, the 'Third Act to Amend the Nationality Act' (German: Drittes Gesetz zur Änderung des Staatsangehörigkeitsgesetzes)³¹, was passed on 27 June 2019 and entered into force on 9 August 2019 (see Chapter 7.2).

The amendments to the law include measures to "control regular and irregular migration", including the recruitment of skilled workers from abroad as well as the return of persons obliged to leave the country (Deutscher Bundestag 2020a: 3). Due to the widespread recognition that the future need for skilled labour will have to be met primarily through immigration, the changes within the framework of the Skilled Labour Immigration Act were widely welcomed. However, the

24 Skilled Labour Immigration Act of 15 August 2019, Federal Law Gazette I 2019, 1307.

25 Second Act to Improve the Enforcement of the Obligation to Leave the Country of 15 August 2019, Federal Law Gazette I 2019, 1294.

26 Act to remove the time-limit of the integration Act of 4 July 2019, Federal Law Gazette I 2019, 914.

27 Act on the Suspension of Removal for Vocational Training and Employment of 8 July 2019, Federal Law Gazette I 2019, 1021.

28 Second Act to Improve Registration and Data Exchange for Residence and Asylum Law Purposes (German: Zweites Gesetz zur Verbesserung der Registrierung und des Datenaustausches zu aufenthalts- und asylrechtlichen Zwecken (Second Data Sharing Improvement Act – 2. DAVG) of 4 August 2019, Federal Law Gazette I 2019, 1131.

29 Third Act on the Amendment of the Asylum Seekers' Benefits Act of 13 August 2019, Federal Law Gazette I 2019, 1290.

30 Act to Promote the Training and Employment of Foreigners (German: Gesetz zur Förderung der Ausbildung und Beschäftigung von Ausländerinnen und Ausländern) – Aliens Employment Promotion Act of 8 July 2019, Federal Law Gazette 2019, 1029.

31 Third Act to Amend the Nationality Act of 4 August 2019, Federal Law Gazette I 2019, 1124.

parliamentary groups Alliance 90/The Greens and FDP as well as some experts would have favoured even more far-reaching reforms in this area (Deutscher Bundestag 2019b, Deutscher Bundestag 2019c: 11720). Particularly with regard to the return policy, amendments to the law were also strongly criticised in terms of content by the opposition parties as well as by civil society organisations (Deutscher Bundestag 2019d). The specific changes and the associated discussions are addressed in the respective chapters (see Chapter 3, 4, 5, 5.2.2, 7, 10).

Refusal to classify further countries as ‘safe countries of origin’

In the coalition agreement of the governing parties, it was agreed to expand the list of ‘safe countries of origin’³² for the “purpose of speeding up procedures” (CDU/CSU/SPD 2018: 108). Against this background, there have been several attempts to declare Georgia, Algeria, Morocco and Tunisia as safe countries of origin. On 18 January 2019, despite the opposition of The Left Party and Alliance 90/The Greens as well as eleven SPD MPs, the German Bundestag resolved to classify Georgia, Algeria, Morocco and Tunisia as ‘safe countries of origin’ (Deutscher Bundestag 2019e: 8775; Deutscher Bundestag 2019f). At its session on 15 February 2019, the Bundesrat postponed the vote on the Bundestag resolution to classify the states as ‘safe countries of origin’ (Deutscher Bundesrat 2019a: 1), as the classification would have failed in the Bundesrat. Apart from Baden-Wuerttemberg, there were no signals from Länder co-governed by Alliance 90/The Greens or The Left Party that they would give their consent. Since it was unlikely that the Bundesrat would give its consent in the near future, Thorsten Frei, vice-chairman of the union parliamentary group (CDU/CSU) in the Bundestag, suggested that the expansion of ‘safe countries of origin’ be achieved in another way. Thus, it was possible for the states mentioned to be classified only “as safe in the sense of the European Asylum Procedures Directive” and not also in the sense of Article 16a of the Basic Law,

since “such a classification [...] [would be possible] without the consent of the Bundesrat” (Leubecher 2019a, emphasis added).

In March 2019, the FDP parliamentary group in the Bundestag submitted a motion for the introduction of a “regulated procedure for the classification of safe countries of origin” and called on the Federal Government to

“carry out a preliminary examination in the course of the regular reporting to the German Bundestag [...] for the first time by the end of 2019 on the extent to which those states whose recognition rate has been below 5 per cent for at least five years and on average over the last ten years, but which were not classified as safe countries of origin in the past, are likely to fulfil the requirements for a corresponding classification on the basis of the current situation reports of the Federal Foreign Office or why this is not likely” (Deutscher Bundestag 2019h: 3).

This would change the procedure so that low recognition rates would trigger an automatic preliminary examination as part of the reporting process.

Thereupon, the Federal Office for Migration and Refugees conducted such an exemplary ‘preliminary examination’ for a total of 26³³ countries of origin, which was then presented in its statement at the consultation on the motion of the FDP parliamentary group in the committee on interior affairs. In this context, it became clear that the situation in 24 of these countries “does not fully correspond with the standards set by the applicable national and European law as well as the highest court rulings in Germany for a classification as a safe country of origin” (BAMF 2019b: 5f.). The reason for the relatively low recognition rate for persons from these states is mainly that “there are internal protection alternatives” and that “particularly persecuted persons often do not [manage to] leave their home country” (BAMF 2019b: 7). Only Armenia and Mongolia, which have already been classified as safe countries of origin by other EU Member States, are suitable for further examination.

32 The law defines countries as safe countries of origin if it is possible to prove on the basis of the democratic system and of the general political situation that no state persecution is to be feared there as a rule, and that the State in question can provide protection against non-state persecution as a matter of principle. Protection against non-state persecution means for instance that there are legal and administrative provisions in place to provide protection for the population, and that these are also made accessible to all and are actually effective. The “default presumption” then applies that there is no risk of persecution. [...] Germany currently considers the following countries to be safe countries of origin: the Member States of the European Union, Albania, Bosnia and Herzegovina, Ghana, Kosovo, North Macedonia, Montenegro, Senegal, and Serbia” (BAMF 2019a).

33 The selection of countries of origin was based on the recognition rate in previous years. The 26 countries of origin are: Armenia, Benin, Burkina-Faso, Côte d’Ivoire, Gambia, Guinea-Bissau, India, Israel, Cameroon, Kazakhstan, Kenya, Colombia, Democratic People’s Republic of Korea, Cuba, Liberia, Mali, Republic of Moldova, Mongolia, Nepal, Niger, Pakistan, Chad, Togo, Ukraine, Vietnam, Belarus (BAMF 2019b: 6; Deutscher Bundestag 2018b: 13).

2.2.1 Political developments and debates relating to the EU

End of the naval operation ‘Sophia’

Within the framework of the operation ‘Sophia’ of the European Union Naval Force – Mediterranean (EUNAVFOR MED), Germany had been involved in combating smuggling networks in the central Mediterranean since 2015. In accordance with their obligation under international law, since 2015, units of the operation have rescued a total of 44 916 people from distress at sea. From March 2019, it was only possible to extend the operation through the compromise of the Member States to instruct the operation commander to suspend the deployment of vessels for the time being. The last sea rescue by the operation took place in July 2018. Germany ended the respective Bundeswehr mission on 30 June 2019. Within this framework, German units have rescued a total of 16 861 people from distress at sea since May 2015 and handed over more than 150 suspected smugglers to the Italian authorities (Bundeswehr 2019; Der Spiegel 2019a; Europäischer Rat 2019b; Europäischer Rat 2019a).

Debate on private sea rescue in the Mediterranean and distribution among European Member States

In 2019, there were major debates at the German and European level on private sea rescue in the Mediterranean and the subsequent distribution of asylum seekers among the European member states. This debate was triggered by the search for a safe haven by the ‘Sea-Watch 3’, a rescue ship of the non-governmental organisation of the same name, in June 2019. After the crew of the ‘Sea-Watch 3’ rescued 53³⁴ people from an inflatable boat off the coast of Libya on 12 June 2019 and took them on board, the rescue ship spent more than two weeks on the Mediterranean Sea, as no nearby European port was prepared to let the ship enter. On June 29, despite a ban by the Italian authorities, the German captain Carola Rackete entered the port of Lampedusa, where she was arrested and put under house arrest. She had refused to take the people rescued to Tripoli, Libya, because it was “not a safe haven” (Brändle/Kohrs/Saul 2019). The house arrest was already declared inadmissible by the courts in July 2019 and she was released. The Italian public prosecutor’s office then lodged an appeal. In the year of the report, 2019, the legal proceedings were not yet concluded. The public debate was very polarised:

On the one hand, Carola Rackete was seen as a “saviour of human dignity in the Mediterranean”, others saw her as a “lawbreaker” (Brändle/Kohrs/Saul 2019). In a statement, the Federal Government “fundamentally opposed any criminalisation of the sea rescuers” and made it clear that it was willing “to admit a certain number” of the people concerned on the ‘Sea-Watch 3’ (Bundesregierung 2019a).

Italy also refused to let the rescue ship ‘Alan Kurdi’ of the German civilian aid organisation ‘Sea-Eye’ with a total of 65 rescued persons enter the port of Lampedusa in July 2019, which caused the Federal Minister of the Interior, Horst Seehofer, to write a letter to the Italian Minister of the Interior, Matteo Salvini, demanding that the ports be opened, which the latter in turn refused. In the end, the rescued people were admitted by the Maltese authorities (Der Spiegel 2019b; Focus Online 2019). Against this background, there were demonstrations of the movement ‘Seebrücke’ for the rights of people in distress at sea and refugees in about 100 towns in Germany. The movement was founded in the summer of 2018 and campaigns, among other things, for safe escape routes and civilian sea rescue (Seebrücke n. d.; Zeit Online 2019a).

Malta agreement on an emergency mechanism for people rescued from distress at sea

At the meeting of the Interior Ministers of the EU Member States on 23 September 2019 in Malta, in the presence of the Finnish Council Presidency and the EU Commission, Germany, France, Malta and Italy agreed on a temporary emergency mechanism for people rescued from distress at sea.³⁵ In addition, the Federal Government wanted to specifically appeal for more EU Member States to join the Malta agreement by the Council of Interior Ministers on 8 October 2019. The mechanism agreed upon initially applied for six months, but can be extended in consultation with the parties involved. However, “[i]f the number of migrants rises significantly, each partner may terminate the agreement unilaterally” (BMI 2019e). According to the Federal Minister of the Interior Horst Seehofer, the resolutions are “a good basis for European cooperation on migration issues” and thus constitute an important component for the reform of the Common European Asylum System (CEAS) (BMI 2019f). According to media reports, both Germany and France each wanted to take in a quarter of those arriving in Italy after a sea rescue, but according to the Federal Government, fixed quotas were “never the subject” of the jointly

34 In mid-June, the Italian authorities admitted a total of 13 people as medical emergencies.

35 The admissions are made in accordance with Art. 17 subs. 2 Regulation (EU) No. 604/2013 (Dublin III).

developed declaration of intent (from Bullion et al. 2019; Deutscher Bundestag 2019k: 2). The agreement was viewed critically by some EU diplomats in Brussels because of the short-term solution. They feared “that a provisional solution could complicate the necessary long-term reform of EU asylum policy” (from Bullion et al. 2019).

Germany has already voluntarily assumed responsibility for conducting asylum procedures for people rescued from distress at sea from Italy in individual cases since 2018.³⁶ According to statistics provided by the Federal Office for Migration and Refugees, Germany agreed to admit a total of 469 people from Italy and 297 people from Malta in 2019 (2018: 50 people from Italy, 66 people from Malta). In fact, 151 people from Italy and 261 from Malta were transferred to Germany³⁷ (2018: 23 people from Italy, 66 people from Malta). In the distribution process, “priority is given to people from countries of origin with a ‘high protection rate’, people with family connections to Germany, closed family groups as well as vulnerable people” (Deutscher Bundestag 2019l: 4).

New EU migration pact

There has already been dissent among the EU Member States for several years on the reform of the Dublin III Agreement.³⁸ At the end of 2018, the EU Commission under the leadership of Commission President Jean-Claude Juncker declared the negotiations on a new Dublin Agreement (Dublin IV) to have failed. In her policy guidelines as a candidate for the Commission Presidency, Ursula von der Leyen promised a new migration and asylum pact, in which especially the reform of the Dublin system would be renegotiated (von der Leyen 2019: 18). In addition, the European Border and Coast Guard Agency (Frontex) was to be expanded. These two projects were intended to enable a return to a “Schengen Area of free movement”

without restrictions by “way of burden sharing” and providing a “fresh start”. In addition, she announced measures in the areas of creating perspectives in countries of origin, cooperation with third countries (both countries of origin and transit countries), smuggling, the creation of legal entry routes, a “more sustainable approach to search and rescue” in connection with the sea rescue of refugees and migrants, and the revision of European return regulations (von der Leyen 2019: 18f.).

During a visit to Berlin on 8 November 2019, Ursula von der Leyen announced the new migration pact for 2020. In the context of the reform of the Common European Asylum System, the Federal Minister of the Interior Horst Seehofer called for “clearer responsibilities in Europe”: thus “a person’s fundamental need for protection [...] should be decided at the external borders. Those not in need of protection should be rejected directly at the external borders” (BMI 2019g; Zeit Online 2019b). Proposals for reforming the asylum system were also submitted by civil society. Thus, at the end of November 2019, representatives of civil society from Germany, France, Poland, Italy and other EU Member States signed the ‘Berlin Action Plan for a New European Asylum Policy’ (German: Berliner Aktionsplan für eine neue europäische Asylpolitik) in which they called on the EU Commission “the guardian of the EU Treaties, to uphold the unconditional right to an individual, fair and thorough asylum procedure in the EU and to ensure that this obligation is respected by all state levels” (Berliner Aktionsplan 2019).

36 The background is that Malta and Italy refused to admit migrants from rescue operations in the Mediterranean in the summer of 2018 (Deutscher Bundestag 2019j). In this context, along with several other EU Member States, in 2018 Germany declared to the countries of first reception that it was willing to voluntarily take on a certain number of rescued migrants in individual cases (see also EMN/BAMF 2019: 21).

37 The asylum procedure is only taken on after a security check by the German security authorities, which explains part of the discrepancy between the commitments given and the people who actually entered the country (Deutscher Bundestag 2019l: 5).

38 “Since 01 January 2014, the Dublin Regulation, (EU) No. 604/2013 (so-called Dublin III Regulation) has set out the criteria and the procedure for determining the State responsible for an asylum application filed in the Member States. In addition to the EU states, Norway, Iceland, Switzerland and Lichtenstein have also committed to the Dublin procedure” (BMI n. d.)

3 Legal immigration and mobility

At a glance

- More than half of new employments subject to social security contributions were accounted for by foreign workers (+306 000 to 4.17 million foreign employees subject to social security contributions from EU Member States and third countries).
- The Skilled Labour Immigration Act was passed as part of the migration package. The biggest change compared to the previous regulations is the improved standing and easier entry of non-academic skilled workers.
- In 2019, a total of 107 520 visas were issued for the purpose of family reunification, 166 more than in the previous year.

The legal access routes for migrants from third countries to Germany are varied, whether in the context of labour market immigration, family reunifications, study or in the context of other education and training programmes. In addition, there are access channels for certain groups of people, such as the admission of Jewish immigrants or ethnic German resettlers. Developments in these individual areas are discussed in more detail below. In addition, it should be taken into account that EU citizens, who are not dealt with in detail below, make up a large part of migration in Germany within the framework of freedom of movement, especially with regard to labour-related migration and migration for the purpose of education.

3.1 Labour-related migration

3.1.1 Background and general context

For third-country nationals there are various options in Germany which enable temporary or permanent residence for the purpose of gainful employment.³⁹ These are both expanded and restructured by the Skilled Labour Immigration Act, which came into force on 1 March 2020. The following presentations in Chapter 3.1.1 refer to the old legal regulations (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), which were valid in the reporting year 2019. For the legal amendments, see Chapter 3.1.2.

In most cases, a visa is required for the third-country nationals to enter Germany, which subsequently has to be replaced by another residence permit.⁴⁰ Fundamentally, the granting of residence permits for gainful employment to third-country nationals is subject to approval by the Federal Employment Agency and determination of the equivalence of the foreign professional qualification with a German qualification. Without a vocational qualification, immigration is subject to major restrictions. Section 18 subs. 3 of the Residence Act generally only allowed a residence permit if this was determined by an intergovernmental agreement or statutory instruments (especially the Ordinance on the admission of foreigners for the purpose of taking up employment) permitted consent. With qualified vocational training, Section 18 subs. 4 of the Residence Act presupposed approval by statutory

³⁹ Alongside EU citizens, nationals from EEA states (Art. 45 ff. TFEU) and Switzerland (EU-Switzerland Agreement on the Free Movement of Persons) also generally enjoy freedom of movement for workers.

⁴⁰ Citizens of Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand and the USA are generally not required to have a visa (Art. 4 subs. 1 in conjunction with Appendix II of the Regulation (EU) 2018/1806 and Section 41 subs. 1 of the Ordinance Governing Residence). Persons from these countries can apply for a residence permit for the purpose of gainful employment at the competent foreigners authority within 90 days of their entry into Germany.

instrument (see Skilled workers in understaffed professions (German: Fachkräfte in Engpassberufen)) or a specific public interest in the individual case. The Skilled Labour Immigration Act substantially expanded this immigration possibility.

Easier options for labour-related migration already existed, however, for highly qualified persons or researchers, the self-employed, and foreign graduates of German universities and vocational training courses. Although labour-related migration to Germany was generally dependent on a concrete job offer, based on Section 18c of the Residence Act, qualified professionals with a university degree could be granted a residence permit for up to six months to look for a job, provided they were able to secure their own livelihood.

Apart from the legal framework conditions, the Federal Government is also pursuing practical measures as well as information and counselling services to recruit skilled workers. These include, for example, the hotline 'Working and Living in Germany' (German: Arbeiten und Leben in Deutschland) run by the Federal Office for Migration and Refugees and the Federal Employment Agency and the portal 'Make it in Germany'⁴¹ of the Federal Ministry for Economic Affairs and Energy (German: Bundesministerium für Wirtschaft und Energie, BMWi), the Federal Ministry of Labour and Social Affairs, and the Federal Employment Agency. 'Make it in Germany' has been the Federal Government's central information portal for skilled workers from abroad since November 2018 (BMWi 2018).

Skilled workers in understaffed professions

In 2019, the regular immigration options for third-country nationals with qualified vocational training were largely limited to specific occupational groups in which a shortage of skilled workers was identified. For this purpose, the Federal Employment Agency together with the Federal Ministry of Labour and Social Affairs produced the so-called Positive List. This is based on the Skilled Worker Shortage Analysis (German: Fachkräfteengpassanalyse) carried out by the Federal Employment Agency and contains the occupations in which a shortage of skilled workers is observed but for which there is no other labour market access (such as the EU Blue Card). The positive list thus served both as a legal basis for the approval of the Federal Employment Agency and as a basis of information for professionally qualified third-country nationals in occupational groups for which

labour-related migration to Germany was at all possible. On the basis of Section 6 subs. 2 and 3 of the Ordinance on the admission of foreigners for the purpose of taking up employment, an applicant for one of these occupations can be granted approval by the Federal Employment Agency without a priority check, provided that the equivalence of the foreign vocational qualification with a German qualified vocational qualification has already been established (Vollmer 2015: 40).

Western Balkans scheme

Since 1 January 2016, nationals of the Western Balkan states Albania, Bosnia and Herzegovina, Kosovo, Northern Macedonia⁴², Montenegro and Serbia have been able to obtain a residence permit for the purpose of employment more easily through the end of 2020 (Section 26 subs. 2 of the Ordinance on the admission of foreigners for the purpose of taking up employment). With the approval of the Federal Employment Agency, which carries out a priority check, any employment can be taken up, regardless of whether the persons concerned have completed vocational training or can demonstrate knowledge of German. However, it is still a prerequisite that there is already a concrete job offer in Germany before the residence permit is issued.⁴³ A further condition is that the applicants have not received any benefits under the Act on Benefits for Asylum Seekers in Germany in the 24 months prior to application.⁴⁴ The application has to be submitted to the competent German diplomatic mission in the country of origin. The regulation was a reaction to the high number of asylum seekers from the Western Balkans in 2014 and 2015 with a very low protection rate and was intended to separate asylum from labour-related migration.⁴⁵

Highly qualified workers

Highly qualified third-country nationals can apply for a residence permit under Section 19a of the Residence Act (EU Blue Card) (as of March 2020: Section 18b subs. 2 of the Residence Act). The EU Blue Card is a separate residence permit that can be limited to a maximum of four years when first issued. Prerequisites for the

41 Website of 'Make it in Germany': <https://www.make-it-in-germany.com/de/> (16.06.2020).

42 Before February 2019: Macedonia.

43 The same applies – though for an unlimited period – to nationals of Andorra, Australia, Israel, Japan, Canada, the Republic of Korea, Monaco, New Zealand, San Marino and the United States of America (Section 26 subs. 1 of the Ordinance on the admission of foreigners for the purpose of taking up employment).

44 Exceptions to this applied through a transitional regulation for persons from the Western Balkan states who applied for asylum between 1 January 2015 and 24 October 2015 and left Germany promptly after 24 October 2015.

45 The regulation is discussed in detail in Brücker/Burkert 2017.

issuing of an EU Blue Card are a German or recognised or comparable foreign university degree, the presentation of an employment contract or a binding job offer and, fundamentally, proof of a minimum annual gross salary of, as a rule, 53 600 euros or 41 808 euros in understaffed professions⁴⁶ in 2019. The EU Blue Card does not require a priority check and also offers “advantages in terms of mobility, family reunification and continuity of residence” (Hanganu/Heß 2016: 5).

Self-employed persons

Third-country nationals who wish to carry out a self-employed profession in Germany can apply for a residence permit under Section 21 of the Residence Act. For this, it is fundamental that the activity is based on “an economic interest or a regional need”, “the activity is expected to have positive effects on the economy” and that “personal capital on the part of the foreigner or a loan undertaking is available to realise the business idea” (Section 21 subs. 1 of the Residence Act).

Graduates from a German university as well as foreign researchers working in Germany may also be issued a residence permit for self-employed work, as long as there is a connection to the knowledge acquired during the studies or the research activity (Section 21 subs. 2a of the Residence Act). Those over 45 also have to demonstrate that they have “adequate provision for old age” (Section 21 subs. 3 of the Residence Act). The residence permit is issued for a maximum of three years. If the activity is successfully carried out, a settlement permit may be issued after three years of holding the residence permit (Section 21 subs. 4 of the Residence Act).

(Mobile) ICT Card

With the entry into force of the ‘Act to Implement the EU Residence Directives on Labour Migration’ (German: Gesetz zur Umsetzung aufenthaltsrechtlicher Richtlinien der Europäischen Union zur Arbeitsmigration) on 1 August 2017, the Intra-Corporate Transfer Directive or ICT Directive (Directive 2014/66/EU) was implemented. The Act introduced the ICT Card as a new residence permit under Section 19b of the Residence Act (from March 2020: Section 19 of the Residence Act) which is issued for the purpose of an intra-corporate transfer of managers, specialists and trainees with a stay of more than 90 days. In addition, the residence

of third-country nationals already resident in another EU Member State in the context of an intra-corporate transfer was also made possible. They were issued a ‘Mobile ICT Card’ for a stay of more than 90 days subject to the relevant conditions under Section 19d of the Residence Act (from March 2020: Section 19b of the Residence Act). Furthermore, according to the provisions of the ICT Directive, it is also possible to stay and take up employment in Germany without a German residence permit for a period of up to 90 days within a period of 180 days. For this, the persons concerned must have a residence permit from another Member State for the purpose of intra-corporate transfer and must go through the notification procedure for short-term mobility (Section 19c of the Residence Act; from March 2020 Section 19a of the Residence Act). The Federal Office for Migration and Refugees is responsible for issuing the certificate.

Seasonal workers

The entry and employment of third-country nationals as seasonal workers for a period of up to six months requires the approval of the Federal Employment Agency, which can also set admission figures based on requirements. The requirements and the procedure for issuing a corresponding work permit are determined by the Federal Ministry of Labour and Social Affairs by statutory instrument (Deutscher Bundesrat 2017a). This is based on bilateral mediation agreements, which, however, do not currently exist with any third country. The Federal Employment Agency is in contact with Georgia to initiate a bilateral mediation agreement. Further initial contacts exist with the third countries Albania, Bosnia-Herzegovina, Northern Macedonia and Moldova (BMI 2020b; Breyton/Graw 2020).

3.1.2 National developments

3.1.2.1 Statistics

Developments on the labour market in Germany

In 2019, the situation on the German labour market continued to develop positively, albeit less dynamically than in previous years. The Federal Employment Agency spoke overall of a “robust labour market development despite the weak economy” (BA 2020a: 8). While employment continued to rise, reaching an annual average in 2019 of 45.3 million (+402 000 compared to the previous year), a new high since reunification (BA 2020a: 38), the rate of growth slowed compared to previous years, which the Federal Employment Agency sees as a sign of the “economic slowdown” (BA 2020a: 8).

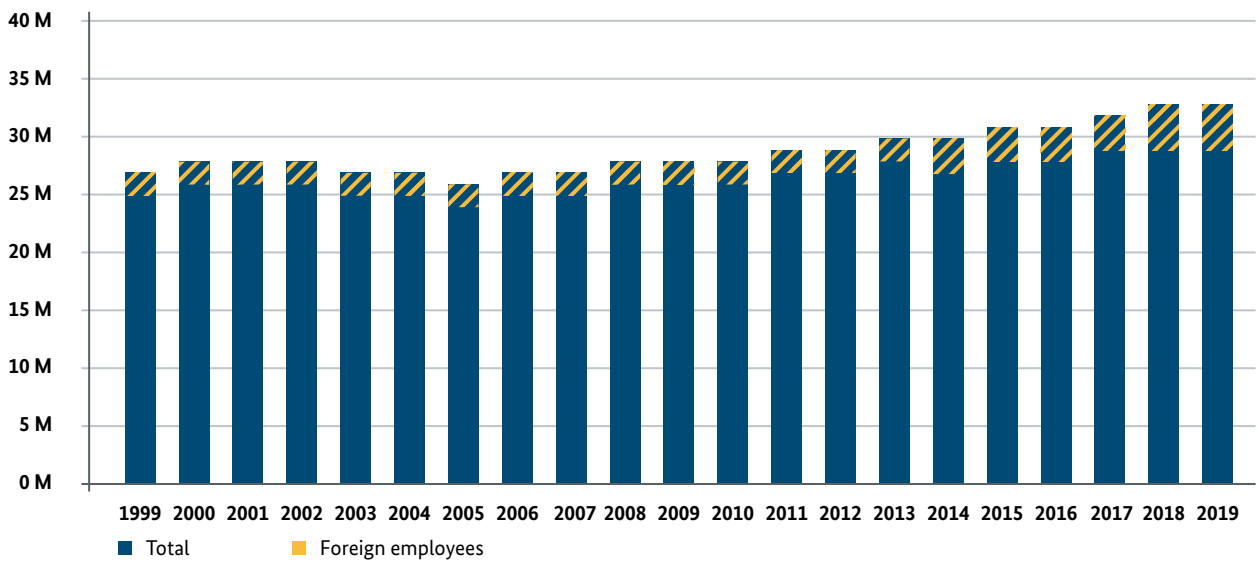
⁴⁶ Understaffed professions include mathematics, science and engineering professions (group 21 ISCO), doctors of human medicine (not dentists) (group 225 ISCO) and academic professionals in information and communication technology (group 25 ISCO).

More than half of the new employment relationships subject to social security contributions were accounted for by foreign workers (+306 000 to 4.2 million foreign employees subject to social security contributions from EU Member States and third countries; BA 2020a: 41). Compared to the previous year, the number of foreign workers subject to social security contributions increased by 6.2% (see Figure 2). The average unemployment rate in 2019 fell by 0.2 percentage points to 5.0% compared to the previous year, although at 12.3% it was significantly higher for foreign nationals (EU nationals

and third-country nationals) than for German nationals at 4.0%. Thus, on average for the year, a total of 2.3 million people were registered as unemployed (BA 2020a: 44 ff.; see Figure 3).

Due to the economic slowdown, the number of people receiving unemployment benefit I (in accordance with the Social Security Code III (German: Sozialgesetzbuch, SGB III) increased slightly on average in 2019. At the same time, the number of employable recipients of unemployment benefit II (according to the Social

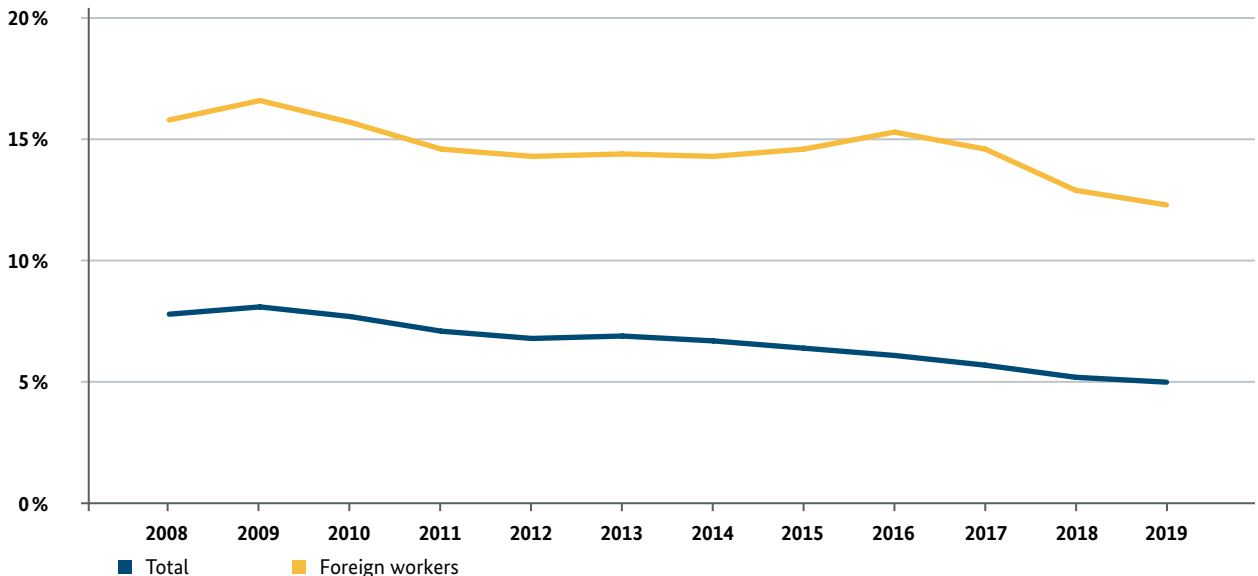
Figure 2: Employees subject to social security contributions in millions of persons (on June 30 1999–2019)



Source: Federal Statistical Office of Germany (German: Statistisches Bundesamt, StBA) 2020a.

Note: For 2019, this is the provisional result. In January 2018, the employment statistics were revised. Foreign workers include both EU and third-country nationals.

Figure 3: Unemployment rate of all civilian gainfully employed persons (2008–2019)



Source: Federal Statistical Office of Germany (StBA) 2020b.

Note: Foreign workers include both EU and third-country nationals.

Security Code II; so-called ‘Hartz IV’) fell significantly (BA 2020a: 8).

In the so-called Skilled Worker Shortage Analysis for December 2019, the Federal Employment Agency also established that Germany has a (regional) shortage of skilled workers in certain occupations such as “in some technical occupations, in construction occupations and in health and nursing occupations” (BA 2020b: 4).

Highly qualified workers

The EU Blue Card continues to enjoy growing demand as a residence law instrument. In 2019, 31 220 EU Blue Cards were issued, an increase of 14.6% compared to the previous year (2018: 27 241 EU Blue Cards). Of the 61 506 EU Blue Card holders resident in Germany at the end of December 2019, 28.0% came from India, 7.4% from China, 6.3% from the Russian Federation, 5.4% from Turkey and 4.0% from the USA (Graf 2020). Within the EU, Germany is the country with the highest proportion of all EU Blue Cards issued in the EU. In 2018, the German share of all EU Blue Cards issued in the Member States was 82.6% (Eurostat 2020a).

Development of the Western Balkans scheme

In 2019, 27 259 visas for taking up employment in Germany were issued under the Western Balkans scheme pursuant to Section 26 subs. 2 of the ‘Ordinance on the Admission of Foreigners for the Purpose of Taking up Employment’ (Deutscher Bundestag 2020b: 9), while the Federal Employment Agency counted 62 334 approvals and 12 698 rejections in the same period (BA 2020c).

Reasons for the high discrepancy can be attributed on the one hand to the applicants (e.g. due to missing documents or documents not submitted on time) and the employers in Germany (e.g. job offer is withdrawn before the visa is granted). On the other hand, capacity problems have been identified at the diplomatic missions. According to the Federal Government, the German diplomatic missions in the six Western Balkan states have waiting times of up to more than a year for visa appointments. Only in Montenegro is the average waiting time lower (Deutscher Bundestag 2020c: 19f.). The problem with the long waiting times is that the preliminary approval of the Federal Employment Agency is only valid for six months and some companies fill their positions with other applicants in the meantime (Brücker/Burkert 2017: 7). An analysis by the Institute for Employment Research (German: Institut für Arbeitsmarkt- und Berufsforschung, IAB) generally gives a positive assessment of the scheme:

The aim of the legislator “to facilitate labour-related migration and at the same time ensure successful labour market integration” has been achieved (Brücker et al. 2020: 11).

3.1.2.2 Legal changes

Skilled Labour Immigration Act

In December 2018, the draft Skilled Labour Immigration Act was already approved by the Federal Cabinet as part of the Federal Government’s skilled labour strategy (BMI 2018a). This was finally passed by the German Bundestag in a slightly revised version on 7 June 2019 and came into force on 1 March 2020. The Skilled Labour Immigration Act does not form an immigration code in its own right, but merely re-regulates labour-related immigration, primarily in the Residence Act and the Ordinance on the admission of foreigners for the purpose of taking up employment. Several smaller amendments also affect other laws, such as the Social Code (German: Sozialgesetzbuch, SGB) or the Income Tax Act (German: Einkommenssteuergesetz, EStG).

The biggest change compared to the previous legal regulation of labour-related migration is the improved standing and facilitation of immigration for work purposes for non-academic skilled workers. The newly introduced legal definition of the term skilled workers (German: Fachkräfte) according to Section 18 of the Residence Act now includes not only persons with a university degree but also those who have completed either German qualified vocational training or foreign qualified vocational training recognised as equivalent. The removal of the priority check for immigrants with such vocational training and an existing employment contract is particularly central.⁴⁷ At the same time, the de facto limitation of immigration of non-academic skilled workers to the understaffed professions specified in the positive list of the Federal Employment Agency no longer applies. From March 2020 all persons with recognised qualified vocational training will thus be able to obtain a residence permit under Section 18a of the new version of the Residence Act. However, persons aged 45 and over have to demonstrate a minimum salary or sufficient pension provision in addition to their employment contract. Specialists in the IT sector are given the opportunity to emigrate entirely without a formal occupational qualification provided they have sufficient professional experience (three years) and a corresponding job offer. However, a minimum

⁴⁷ However, the priority check can be reintroduced at short notice for certain professions or regions by ordinance.

gross monthly salary of currently 4 140 euros is required⁴⁸ (BMI 2020c).

Another change concerns the regulation of access to employment. Where previously the exercising of gainful employment for persons with a residence permit was regulated as an exception (Section 4 subs. 2 first sentence of the old version of the Residence Act), it is now defined as a rule. Persons who hold a residence permit may now engage in gainful employment, unless a law stipulates a prohibition (Section 4a subs. 1 of the new version of the Residence Act). The reason given by the legislator for the change in the relationship between the rule and the exception is that gainful employment is now permitted in the vast majority of cases and only prohibited by law in a few cases. The existing prohibitions on the pursuit of gainful employment also remain in place after the amendments (Deutscher Bundestag 2019m: 86f.)

Also, under Section 18c subs. 1 of the new version of the Residence Act, both academic and non-academic skilled workers receive a settlement permit after only four years instead of the previous regulation under Section 9 of the Residence Act (five years). However, the special regulation for holders of an EU Blue Card, for whom this is already possible after 33 or 21 months, continues to exist (Section 18c subs. 2 of the new version of the Residence Act). In addition to these simplifications for immigration in the context of established gainful employment, the new Section 20 subs. 1 of the Residence Act also grants persons with recognised qualified vocational training the option to enter Germany for a limited period of time to look for work. This was previously only possible for university graduates (Section 18c old version of the Residence Act, Section 20 subs. 2 of the new version of the Residence Act). German language skills (as a rule, level B1) and an independent means of subsistence are a prerequisite. Trial work of up to ten hours a week is possible. However, the Federal Ministry of Labour and Social Affairs may exempt individual occupational groups from this regulation.

In addition, improvements in the administrative procedures are to be made, for example by bundling responsibilities at central foreigners authorities or by introducing the fast-track procedure for skilled workers (Section 81a of the Residence Act), which employers in Germany can initiate at the competent

foreigners authority for a fee of 411 euros with an authorisation from the foreign skilled worker. Accompanying measures, such as advertising campaigns in cooperation with the business community, faster recognition of foreign educational qualifications and greater promotion of German language skills, especially abroad, are intended to support the implementation of the skilled labour strategy (Bundesregierung 2020a).

In their statements on the draft law, experts especially welcomed the abolition of the priority check and the list of understaffed professions, which were described as a “step in the right direction” (Deutscher Bundestag 2019n). A further component of the requirements, however, remains the recognition of vocational qualifications with the aim of enabling employment commensurate with the qualifications (Section 1 of the Act on the Determination of the Equivalence of Professional Qualifications (German: *Berufsqualifikationsfeststellungsgesetz*, BQFG). In their statements, various actors called for even more changes to the recognition procedure than provided for in the law in order to simplify the immigration of skilled workers (Becker 2019; Deutscher Bundestag 2019n). During the legislative process, the parliamentary groups Alliance 90/ The Greens and FDP also proposed modernising the immigration system with a ‘points system’ based on the model of other immigration countries, such as Canada (Deutscher Bundestag 2019n).

Act on the Suspension of Removal for Vocational Training and Employment

The ‘Act on the Suspension of Removal for Vocational Training and Employment’, which was passed in parallel to the Skilled Labour Immigration Act and came into force on 1 January 2020, is furthermore intended to offer rejected asylum seekers with a temporary suspension of removal a reliable residence status under certain conditions in order to pursue employment or training. For this purpose, the regulations of the existing suspension of removal for vocational training were expanded and the possibility of a suspension of removal for employment purposes was introduced (BMI 2019h; see Chapter 6.1.1).

Aliens Employment Promotion Act

The Aliens Employment Promotion Act⁴⁹, which came into force on 1 August 2019, is intended to attract both EU citizens and third-country nationals to Germany more for training in the context of skilled labour immigration.

48 At least 60% of the annual contribution assessment ceiling in the general pension insurance scheme (Section 6 of the Ordinance on the admission of foreigners for the purpose of taking up employment).

49 Act to Promote the Training and Employment of Foreigners – Aliens Employment Promotion Act.

For this, the access to training support funds was facilitated for these groups, for example within the framework of the vocational training grant (German: Berufsausbildungsbeihilfe) but also for vocational or training preparation measures (BMAS 2019b; see Chapter 6.1.1).

3.1.2.3 Further developments in the area of labour-related migration

Joint declaration of intent with the Republic of Kosovo

On 15 July 2019, the German Minister of Health, Jens Spahn, and his counterpart from the Republic of Kosovo, Uran Ismajli, signed a joint declaration of intent⁵⁰, which is to form the basis for increased cooperation between the two countries in the field of health and care (BMG 2019a). The declaration also includes mutual exchange and support in the area of training of healthcare professionals.

German Agency for Health and Nursing Professions (German: Deutsche Fachkräfteagentur für Gesundheits- und Pflegeberufe, DeFa)

Within the framework of the ‘Concentrated Care Action’ (German: Konzentrierte Aktion Pflege), on 4 October 2019, the Saarland founded the German Agency for Health and Nursing Professions (DeFa) in Saarbrücken and is its sole shareholder. The Federal Ministry of Health (German: Bundesministerium für Gesundheit, BMG) provided start-up funding. The agency supports health sector institutions that wish to recruit care workers from abroad. The support is primarily provided in the supervision of administrative procedures, e.g. in the application for visas, the recognition of foreign professional qualifications or the issuing of residence and work permits (BMG 2019b).

Establishment of the Service Centre for Professional Recognition (German: Zentrale Servicestelle Berufsanerkennung)

In October 2019, the Federal Ministry of Education and Research (German: Bundesministerium für Bildung und Forschung, BMBF), the Federal Ministry of Labour and Social Affairs and the Federal Employment Agency decided to establish the ‘Service Centre for Professional Recognition’ (ZSBA). It started its work in February 2020 as part of the ‘Central Placement Office for Foreigners and Specialists’ (German: Zentrale Auslands- und

Fachvermittlung‘ (ZAV) run by the Federal Employment Agency in Bonn and is funded by the Federal Ministry of Education and Research for an initial period of four years. For this period, 3.5 million euros will be made available per year, as well as another 500 000 euros for the set-up. The main task of the Service Centre for Professional Recognition (ZSBA) is to offer people abroad who want to have their qualifications recognised in Germany a central point of contact that can advise them on procedural requirements, residence law issues and possible places of employment with regard to their specific case. Furthermore, support is to be provided in putting together the necessary documents, forwarding them to the competent offices and establishing contact with potential German employers. In doing so, the Service Centre for Professional Recognition works closely with the existing information and counselling centres in order to close an existing gap in services and to relieve the burden on the other institutions (BMBF 2019a).

3.2 Family reunification

3.2.1 Background and general context

Article 6 of the Basic Law provides for the special protection of marriage and the family. The European Convention on Human Rights (Article 8) and the Universal Declaration of Human Rights (Article 16) also affirm this special status of protection and respect. In 2003, the EU Family Reunification Directive (Directive 2003/86/EC) was also passed, which has since regulated the EU-wide legal framework for family reunification of third-country nationals with third-country nationals and with the nationals of the respective Member State. The national requirements for family reunification with Germans and third-country nationals on the other hand are laid down in Sections 27-36a of the Residence Act⁵¹. In this context, with regard to family reunification, same-sex civil partnerships are largely on an equal footing with marriage (Section 27 subs. 2 of the Residence Act). The right to family reunification fundamentally applies to the nuclear family. Since the amendment of the Residence Act and the Ordinance on the admission of foreigners for the purpose of taking up employment on 6 September 2013, all persons with a residence permit for the purpose of family reunification are entitled to engage in gainful employment (Section 27 subs. 5 of the Residence Act).

⁵⁰ Joint Declaration of Intent between the Federal Ministry of Health of the Federal Republic of Germany and the Ministry of Health of the Republic of Kosovo.

⁵¹ Regulations for family reunification with EU or EEA nationals entitled to freedom of movement by people who do not have such nationality themselves are contained in the Freedom of Movement Act. These persons receive (permanent) residence cards pursuant to Section 5 of the Freedom of Movement Act/EU.

If there is no privileged family reunification right, under which certain conditions are or may be waived, individual conditions for family reunification generally have to be fulfilled (e.g. sufficient living space must be available and subsistence secured, Sections 29 and 5 of the Residence Act). Since September 2007, spouses and partners of third-country nationals and Germans living in Germany who reunite with their spouses or partners in Germany generally also have to demonstrate knowledge of German prior to entry (Section 30 subs. 1 first sentence No. 2 of the Residence Act).

Family reunification is not permitted under certain conditions, for example if it is established that the marriage is a sham or forced marriage or partnership or a polygamous marriage (Section 27 and 30 subs. 4 of the Residence Act).

3.2.2 National developments

Statistics

In 2019, a total of 107 520 visas were issued for the purpose of family reunification, 166 more than in the previous year (2018: 107 354). After the number of issuances declined in 2018 for the first time since 2013, it remained largely constant in 2019. The majority of visas issued in 2019 were granted to spouses wishing to join their foreign partners (41 544). 38 990 visas were issued to minor children joining a parent living in Germany. In third place were spouses who wanted to join their German partners (19 524; AA 2020a).

Restriction of family reunification, family support programme and hardship cases

Family reunification was suspended for beneficiaries of subsidiary protection who were granted a residence permit from 17 March 2016 until 31 July 2018 (Section 104 subs. 13 of the Residence Act). Since 1 August 2018, reunification with beneficiaries of subsidiary protection has been permitted again, but limited to 1 000 national visas per month for family members of beneficiaries of subsidiary protection. The regulation is implemented by the Federal Office of Administration. In the entire year 2019, 11 129 such visas were issued (Deutscher Bundestag 2020d: 120).

3.3 Education and research

3.3.1 Background and general context

Residence law options for educational measures in Germany were regulated in 2019 by Sections 16-17b of the Residence Act (from March 2020: Sections 16-17 of the Residence Act). The central group is made up of foreign nationals who come to Germany to study. In addition, however, under certain conditions immigration is also possible within other training and educational measures.

Studies

International students (from non-EU states) were generally granted a residence permit for the purpose of full-time study in accordance with Section 16 subs. 1 first sentence of the Residence Act (from March 2020: Section 16b subs. 1 first sentence of the Residence Act).⁵² However, it is also possible to obtain a residence permit to apply for studies (Section 16 subs. 7 of the Residence Act; from March 2020: Section 17 subs. 2 of the Residence Act). In addition, a residence permit can be issued for measures which prepare for studies such as attending an introductory course for foreign students, completing a compulsory internship or a language course which prepares for studies (Section 16 subs. 1 second sentence of the Residence Act; from March 2020: Section 16b subs. 1 second sentence of the Residence Act).

The residence permit is issued after entry by the local foreigners authority. As a rule, a visa has to be applied for at the German diplomatic mission in the country of origin.⁵³ The prerequisites for the issuing of a corresponding residence permit for study purposes include a letter of admission⁵⁴ from a recognised German university or comparable educational institution as well as proof that the first year of study is financially secured

⁵² The explanations in this section are based on Hoffmeyer-Zlotnik/Grote 2019: 33.

⁵³ Alongside students from the EU Member States, students from Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand, the USA (Section 41 subs. 1 of the Ordinance Governing Residence) as well as Andorra, Brazil, El Salvador, Honduras, Monaco and San Marino are exempt from this requirement (Section 41 subs. 2 of the Ordinance Governing Residence). Persons from these countries can apply for a residence permit for the purpose of studying at the competent foreigners authority within 90 days of their entry into Germany.

⁵⁴ Persons still waiting for the letter of admission or who have to take an entrance examination have the option of applying to study. Once in Germany, the visa then has to be presented to the immigration authority at the study location, which converts it into a residence permit for study purposes.

(2019: 8 640 euros; for applications submitted since 1 September 2019 which go beyond the year 2019: 10 236 euros). In addition, sufficient health insurance cover has to be available (Deutsches Studentenwerk 2020), and proof of the required knowledge of the language of instruction provided. Furthermore, aptitude tests now have to be taken for admission to numerous universities (Hoffmeyer-Zlotnik/Grote 2019: 32).

In 2017 the REST Directive (Directive (EU) 2016/801) was transposed in Germany. With the transposition of the Directive, among other things, students are now entitled to be issued a residence permit for study purposes; this is no longer at the discretion of the authorities. The notification procedure introduced by the transposition of the Directive has significantly facilitated the mobility of international students within the EU. If they have already been issued a residence permit for study purposes in another EU Member State, they do not need a separate residence permit in Germany for a stay of up to 360 days in the context of this study programme. The Federal Office for Migration and Refugees issues the certificate required for entry and residence.

After successfully completing their studies, based on Section 16 subs. 5 of the Residence Act (from March 2020: Section 20 subs. 3 of the Residence Act) students are allowed to stay in Germany for up to 18 months to look for a job that corresponds to their studies and – if the search is successful – to change to a residence permit for employment purposes. Provided that the respective requirements are met, the REST Directive established a legal entitlement to a stay for at least nine months for the purpose of seeking employment.

Research

Researchers from third countries have three options for legal residence in Germany:

- a residence permit for the purpose of research (Section 20 of the Residence Act; from March 2020: Section 18d of the Residence Act),
- a residence permit from another EU Member State (with the exception of Denmark, the United Kingdom (EU exit on 31 January 2020) and Ireland) and short-term mobility (Section 18e of the Residence Act) within the meaning of the European REST Directive (Directive (EU) 2016/801),
- and a residence permit for mobile researchers (Section 20b of the Residence Act; from March 2020: Section 18e of the Residence Act).

The prerequisite for the issuing of a residence permit for research purposes is an effectively concluded hosting agreement or a corresponding contract for the implementation of a research project. The residence permit also allows researchers to teach. If the research project is carried out at a recognised research institution, the residence permit is to be issued within 60 days of the application (Section 20 subs. 1 second sentence; from March 2020: Section 18d subs. 1 second sentence). The residence permit for research purposes also applies if the research includes stays in other EU Member States.

Third-country nationals who stay in the EU for the purpose of research and who hold a corresponding residence permit from another EU Member State (with the exception of Denmark, the United Kingdom and Ireland) within the meaning of the REST Directive (Directive (EU) 2016/801) may stay and conduct research in Germany without a German residence permit ('short-term mobility') if they work at a German research institution for a maximum of 180 days within a period of 360 days (BAMF 2020a). This regulation also applies vice versa to researchers from third countries in Germany who hold a residence permit for research purposes. They are also entitled to mobility within the EU Member States (with the exception of Denmark, the United Kingdom and Ireland).

A further residence status for researchers has also been introduced in the framework of the transposition of the REST Directive. According to this, third-country nationals who already hold a residence permit within the meaning of the REST Directive in another EU Member State (with the exception of Denmark, the United Kingdom and Ireland) and are planning a research stay in Germany of over 180 days and up to one year may apply for a separate residence permit: the residence permit for mobile researchers.

In addition to these residence permits for research purposes, research activities are often also carried out within the context of stays that are not explicitly for research purposes, but where highly qualified education is a prerequisite. This is the case, for example, with residence permits for employment purposes (in conjunction with Section 5 of the Ordinance on the admission of foreigners for the purpose of taking up employment) and settlement permits for highly qualified persons (Section 19 of the Residence Act; from March 2020: Section 18c subs. 3 of the Residence Act) which are issued to teachers and academic staff in prominent positions. The same applies to the issuing of an EU Blue Card (see also Chapter 3.1.1 and 3.1.2). When a residence permit for research purposes is issued

for the first time, it is possible to choose between a residence permit for research purposes and an EU Blue Card, provided that the requirements for both permits are met (18d.0.3 Application Notes of the Federal Ministry of the Interior, Building and Community⁵⁵). For research in the context of a doctorate, as a rule, a residence permit for research purposes is issued if the doctorate is based on gainful employment “totalling no more than 120 days or 240 half days per year” (Section 16 subs. 3 of the Residence Act; from March 2020: Section 16b subs. 3 of the Residence Act). Otherwise, the corresponding right of residence for study purposes applies.

Other education

In addition to studies, German residence law also provides opportunities for the legal immigration of third-country nationals for other training and educational measures. For example, foreign nationals can obtain a residence permit to attend language courses or, in exceptional cases, also to attend general schooling (Section 16b subs. 1 of the Residence Act; from March 2020: Section 16f of the Residence Act) as well as for basic and advanced in-company vocational training (Section 17 subs. 1 of the Residence Act; from March 2020: Section 16a of the Residence Act⁵⁶) for which, however, the consent of the Federal Employment Agency is usually required (Section 8 subs. 1 of the Ordinance on the admission of foreigners for the purpose of taking up employment), unless the Ordinance on the admission of foreigners for the purpose of taking up employment or intergovernmental agreements contain other provisions for a specific occupational group (Section 42 of the Residence Act in conjunction with Sections 1, 2 of the Ordinance on the admission of foreigners for the purpose of taking up employment).

In addition, since 2015 it has been possible to obtain a residence permit for up to 18 months to undertake an educational measure and a subsequent examination for the purpose of recognition of occupational qualifications acquired abroad. This residence permit can be extended for a maximum of six months (Section 17a of the Residence Act; from March 2020: Section 16d of the Residence Act). Following in-company training or school education or a measure for the recognition of a foreign vocational qualification, a residence permit for

12 months can also be issued to enable the holder to apply for a suitable job in Germany (Sections 16b subs. 3, 17 subs. 3, 17a subs. 4 of the Residence Act; from March 2020: Section 20 subs. 3 of the Residence Act). During the period of vocational training or recognition of the professional qualification, gainful employment of up to ten hours per week may be taken up. For the recognition of professional qualifications from abroad see Chapter 6.

3.3.2 National developments

Statistics

In the summer semester 2019, 379 549 foreign students were enrolled at German universities (educational residents (German: Bildungsinländer)⁵⁷ and educational non-residents (German: Bildungsausländer)⁵⁸; StBA 2020c), while according to provisional figures, it was a total of 411 285 in the winter semester 2019/2020⁵⁹. This meant an increase of 4.2% compared to the winter semester of the previous year (394 665). Foreign students thus account for a 14.2% share of all 2 892 044 students at German higher education institutions in the winter semester 2019/2020 (StBA 2020d).⁶⁰ The proportion of students from a third country was 75.1% of all international students in the summer semester 2019, with China and Turkey as by far the most significant countries of origin at 11.0% and 9.9% respectively. The share of educational residents among the foreign students was 22.7% (StBA 2020c).

The most up-to-date figures available for foreign academics at German universities are for 2018. According to these figures, a total of 49 124 foreign academic and artistic staff were employed at German universities in that year – which corresponds to an increase of 5.5% compared to the previous year and a share of 12.2% of the total university staff – including 3 415 full-time professors (StBA 2019b). “Since 2006, there has been a continuous increase in the number of foreign academic and artistic staff at German universities” (BMI/BAMF 2020: 82). Of the foreign academics, almost half (approximately 40%) conducted research in the

55 Application notes of the Federal Ministry of the Interior, Building and Community on the Skilled Labour Immigration Act (German: Anwendungshinweise des BMI)

56 Section 16a subs. 2 of the Residence Act also covers school-based vocational training, which was previously regulated by Section 16b of the Residence Act.

57 Educational residents are “foreign students who received their entry qualification in Germany” (Hoffmeyer-Zlotnik/Grote 2019: 12).

58 Educational non-residents are “foreign students who received their entry qualification outside of Germany” (including German schools abroad) (Hoffmeyer-Zlotnik/Grote 2019: 12).

59 These are provisional figures.

60 Due to the semester rotation, the figure for the 2019 summer semester is, as in previous years, lower than that for the preceding winter semester.

so-called STEM subjects⁶¹. About 43% of the foreign academic staff came from the Member States of the European Union (incl. the United Kingdom) and especially from Italy (3 582 persons). The most significant non-European countries of origin in 2018 were China with 3 084 researchers, India with 2 933 and the United States with 2 319 (StBA 2019b).

According to evaluations from the Central Register of Foreign Nationals, there were also 13 013 third-country nationals in Germany at the end of 2019 who held a residence permit to attend a language course or school (Section 16b subs. 1 of the Residence Act). A further 24 831 persons held a permit for the purpose of in-company training (Section 17 subs. 1 of the Residence Act), while 2 557 had a right of residence subject to measures for the recognition of foreign professional qualifications (Section 17a subs. 1, 5 of the Residence Act) (Graf 2020).

The most important changes in the framework of the Skilled Labour Immigration Act

The Skilled Labour Immigration Act contains several changes concerning the legal situation of the migration of persons in education and research.⁶² For example, a basic standard was introduced for residence for educational purposes:

“Giving foreigners access to education serves to promote general education, international understanding and meeting Germany’s demand for skilled labour. It also serves to promote Germany’s relations in the global scientific community and international development. Access to education is organised in a manner ensuring public security interests” (Section 16 of the Residence Act).

This formulates the retention of international students as well as intergovernmental cooperation and international development as statutory objectives of the residency of students and trainees. For a residence permit to be issued for study purposes, from March 2020, in contrast to the previous regulation, the required language level is not generally specified; instead – as was previously only the case if an examination of the language skills had not yet been carried out in the context of admission by the university – “proof of knowledge of the language needed for the specific course” is required (Section 16b subs. 1 of the new version of

the Residence Act). According to the explanatory reasoning, “as a rule, language skills at least at level B2” of the Common European Framework of Reference for Languages (CEFR) should be required (BMI 2018a: 104). Furthermore, the law standardises and partially expands the options for switching to other residence permits. For example, it is stipulated that a change from a residence permit for the purpose of studying to a permit “to pursue quality vocational training, employment as a skilled worker, employment in a job requiring a high degree of practical occupational skills as referred to in section 19c subs. 2 or if they are legally entitled to it” is possible (Section 16b subs. 4 of the new version of the Residence Act).

Alongside the extended regulations regarding university studies, the Skilled Labour Immigration Act also introduces new provisions for residence within the framework of a vocational training measure. As with students, for example Section 16a subs. 1 of the new version of the Residence Act also offers those in basic and advanced in-company vocational training the option to change from an ongoing measure to a residence permit for gainful employment. With the new Section 18c of the Residence Act it is also possible for those who have completed German vocational training to obtain a settlement permit after only two years of employment.

At the same time, the issuance of a residence status in order to have existing professional qualifications recognised within the framework of qualification measures in Germany is facilitated. Here, the fixed period of issuance of the residence permit of 18 months can be extended by a maximum of six months up to a maximum period of 24 months (Section 16d of the new version of the Residence Act). After expiry of this maximum period, a residence permit may also be issued for study, training or gainful employment. Furthermore, entry to seek a training position without prior vocational qualification is permitted under certain conditions. These include, e.g. age or the educational qualification to be presented (Section 17 subs. 1 of the new version of the Residence Act).

Tuition fees for international students from non-EU/EEA countries

For the winter semester 2017/2018, Baden-Wuerttemberg was the only Land to introduce tuition fees exclusively for international students from outside the EU or EEA, amounting to 1 500 euros per semester for a first degree and 650 euros for a second degree. Of this, 300 euros flowed directly to the universities to cover the “additional costs incurred” (MWK Baden-Württemberg 2017) and to improve the general framework conditions.

61 STEM subjects: Science, technology, engineering, and mathematics.

62 The explanations in this section are based on Hoffmeyer-Zlotnik/Grote 2019.

This had the effect that the number of new enrolments already fell by 19.2% to the 2013 level in the winter semester in which the fees were introduced. This decline was planned for by the Land government in advance. However, due to various exceptions regarding the due date of the fees – approx. 50% of the students concerned were exempt from payment – the additional revenue of approx. 4.3 million euros was lower than expected (Landtag Baden-Württemberg 2018). In the winter semester 2018/19, the number of first-year students from non-EU/EEA countries increased again slightly (Statistisches Landesamt Baden-Württemberg 2019).

As a result of the developments in Baden-Wuerttemberg, the Land government of North Rhine-Westphalia withdrew the plan to introduce a corresponding fee model, which had been agreed in the coalition agreement (Forschung und Lehre 2019).

3.4 Further legal migration channels

3.4.1 Background and general context

Alongside migration for educational and employment purposes and for the purpose of family reunification, there are also ways for Jewish immigrants from the former Soviet Union and for ethnic German resettlers to immigrate legally to Germany.

Jewish immigration

Since 1990, Germany has admitted Jewish immigrants as well as their family members from the successor states of the former Soviet Union, initially through the government of the German Democratic Republic (GDR) and then also through the Federal Republic of Germany (Belkin 2017: 231ff.).⁶³ With the entry into force of the Immigration Act (German: *Zuwanderungsgesetz*) on 1 January 2005, this procedure was re-organised. Since then, the Federal Office for Migration and Refugees has been responsible for implementation, which has been regulated in a code of procedure⁶⁴

63 GDR: Point 6 of the resolution on provisional regulations regarding the residence and asylum of foreigners of the 16th session of the Council of Ministers of the GDR of 11 July 1990 (cf. Belkin 2017: 231ff.); Federal Republic of Germany: Resolution of the Minister Presidents' Conference of 9 January 1991.

64 Order of the Federal Ministry of the Interior under Section 23 subs. 2 of the Residence Act on the admission of Jewish immigrants from the former Soviet Union with the exception of the Baltic States of 24 May 2007 last amended on 13 January 2015

since 2007. Here, the integration of immigrant Jews into the Jewish communities as well as into the wider German society is to be promoted, which is why certain admission requirements have to be met. These requirements include citizenship of a successor state of the former Soviet Union, proof of a Jewish parent or grandparent, basic knowledge of the German language (level A1 CEFR), proof that subsistence is secured in Germany and the possibility of admission to a Jewish community (BAMF 2020b: 4). There are exceptions for victims of National Socialism. The legal basis for the admission of Jewish immigrants is Section 23 subs. 2 in conjunction with Section 75 No. 8 of the Residence Act.

Ethnic German resettlers

The admission of ethnic German resettlers is regulated in the Federal Expellees Act (German: *Bundesvertriebenengesetz*, BVFG).⁶⁵ The admission procedure is carried out by the Federal Office of Administration, applications are submitted in the countries of origin and entry is only permitted once the admission notification has been issued. With the recognition as an ethnic German resettler, German citizenship is automatically granted (Section 7 of the Nationality Act in conjunction with Section 15 subs. 1 of the Federal Expellees Act). The prerequisite for admission is the “German ethnicity” of the applicants (Section 6 subs. 1 of the Federal Expellees Act). This is the case for persons who are descended from at least one parent with German citizenship or “German ethnicity” and who declare their “German nationality” by means of a corresponding declaration of nationality (e.g. civil status certificates) or in another way⁶⁶. Furthermore, they need to be able to hold a simple conversation in German (Section 6 subs. 2 of the Federal Expellees Act). Applicants from states other than the former Soviet Union (including Estonia, Latvia or Lithuania) also have to prove that they were subject to disadvantages or after-effects of previous disadvantages due to their “German ethnicity” (Section 4 subs. 2 of the Federal Expellees Act). Since the entry into force of the Tenth Act Amending the Federal Expellees Act on 14 September 2013, spouses and partners as well as children of ethnic German resettlers can also be admitted retrospectively upon application, provided they have at least A1 CEFR-level German language skills (Section 27 subs. 2 of the Federal Expellees Act). Since this regulation, the admissions of

in the version of 21 May 2015.

65 Law on the affairs of displaced persons and refugees (German: *Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge*).

66 In particular by providing proof of German language skills at level B1 CEFR or German language skills imparted by the family.

ethnic German resettlers have risen steadily again (Beauftragter der Bundesregierung für Aussiedlerfragen und nationale Minderheiten 2020).

3.4.2 National developments

Jewish immigration

In 2019, 789 people of Jewish faith entered Germany from the successor states of the former Soviet Union via the admission procedure (2018: 1 038). The number thus fell again somewhat after it had risen in 2018, among other things due to the fighting in eastern Ukraine. Compared to previous years, it thus remained at a low level.

Since statistical recording began in 1993, a total of 209 923 Jewish immigrants including their family members have entered Germany in an orderly procedure (as of: December 2019). Added to this are 8 535 people who had applied before the statistics began or outside of the orderly procedure by the reference date of 10 November 1991. Thus, a total of 218 458 persons entered the Federal Republic within the framework of the admission procedures by the end of 2019.

Ethnic German resettlers

In 2019, 7 155 ethnic German resettlers and their family members moved to Germany, which is a slight increase of 29 persons compared to the previous year (2018: 7 126) and also represents an increase for the seventh year in a row. Of these, 7 149 ethnic German resettlers came from the successor states of the former Soviet Union, including 3 424 from the Russian Federation, 2 597 from Kazakhstan, 669 from Ukraine and 459 from nine other successor states (BVA 2020).

Since 1950, more than 4.5 million (ethnic) German resettlers including their family members have been admitted to Germany. They form one of the largest groups of immigrants in the country, which is mainly due to the high immigration figures during the 1990s (e.g. 1990 with 397 073 persons) (BVA 2019b)

4 International protection and asylum

At a glance

- In 2019, 166 951 initial and subsequent applications were submitted, which constitutes a decrease compared to the previous year. Syria, Iraq and Turkey were the three nationalities most represented.
- Within the framework of the migration package, several legislative amendments were passed in the area of asylum: the ‘Act to Remove the Time-Limit of the Integration Act’, the ‘Second Data Sharing Improvement Act’, the ‘Second Act to Improve the Enforcement of the Obligation to Leave the Country’ and the ‘Third Act on the Amendment of the Asylum Seekers’ Benefits Act’. The aim of the amendments is to improve control in the area of asylum; among other things through the residence requirement as well as further measures to better establish identity.
- The Federal Government launched the pilot project ‘Neustart im Team’ (NesT), a state-run social humanitarian reception programme for vulnerable people. The first arrivals took place in November 2019.

4.1 National asylum system

4.1.1 Background and general context

Arrival and registration

Asylum seekers have to report to a state authority⁶⁷ on or immediately after their entry into Germany if they wish to apply for asylum (for an overview, see the infographic ‘International Protection and Asylum’). In this context, they are registered and their data are stored centrally (incl. photo and fingerprints). The asylum seekers are then distributed among the 16 federal states according to a prescribed quota (‘Königstein Key’). The Länder are responsible for providing accommodation in ‘reception facilities’ (often also referred to as ‘initial reception facilities’). Depending on the country of origin of the asylum seekers, accommodation can take place in the reception facilities for a maximum of up to 24 months⁶⁸ or until a decision is made on the asylum application (e.g. in the case of asylum seekers from so-called safe countries of origin⁶⁹; Section 47 of the Asylum Act).

67 E.g. border, security, foreigners authorities or at a reception facility or arrival centre.

68 Fundamentally, there is an obligation to live in the competent reception facility for a maximum of 18 months. In the case of minor children and their parents or other custodians as well as their adult, unmarried siblings, the residence obligation applies for a maximum of six months (Section 47 subs. 1 first sentence of the Asylum Act). However, the Länder can extend the residence obligation up to a maximum of 24 months (Section 47 subs. 1b first sentence of the Asylum Act).

69 The law defines countries as safe countries of origin if it is possible to prove on the basis of the democratic system and of the general political situation that no state persecution is to be feared there as a rule, and that the State in question can provide protection against non-state persecution as a matter of principle. Protection against non-state persecution means for instance that there are legal and administrative provisions in place to provide protection for the population, and that these are also made accessible to all and are actually effective. The "default presumption" then applies that there is no risk of persecution. [...] Germany currently considers the following countries to be safe countries of origin: the Member States of the European Union, Albania, Bosnia and Herzegovina, Ghana, Kosovo, North Macedonia, Montenegro, Senegal, and Serbia”(BAMF 2019a).

International protection and asylum

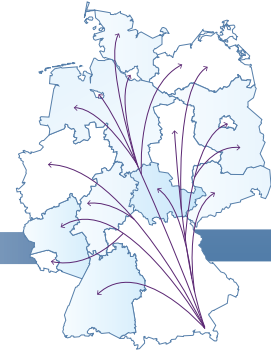


ARRIVAL AND REGISTRATION

At a state agency: Federal or Land police, branch offices of the Federal Office for Migration and Refugees, reception facilities, foreigners authorities and arrival centres of the Länder



Taking personal data of asylum seekers; data storage in the **Central Register of Foreign Nationals**; data synchronisation with the **Central Register of Foreign Nationals**, the **Federal Criminal Police Office** as well as Eurodac; issuing the proof of arrival



INITIAL DISTRIBUTION AND ACCOMMODATION

Distribution of asylum seekers according to the **Königstein Key** and admission to the reception centre of the respective competent Land

CONDUCTION OF THE DUBLIN PROCEDURE BY THE BAMF

Determination of the state responsible for conducting the asylum procedure

PERSONAL INTERVIEW AT THE BAMF

Determination of the reasons for protection, assignment of special representatives for interview procedures of vulnerable persons

PERSONAL APPLICATION FOR ASYLUM AT THE BAMF

Information on rights, obligations and steps in the asylum procedure; clarification of identity; issuance of permission to remain pending the asylum decision

COMPETENT RECEPTION FACILITY

Accommodation, meals and provision of daily necessities

Compulsory residence

Obligation to live in the competent reception facility. Exceptions: Minors and their guardians (max. 6 months); asylum seekers from safe countries of origin (until the decision on asylum application or departure).

months
Generally max. 18

Residence requirement

Depending on the Land, the free choice of residence for beneficiaries of protection is usually restricted for a period of 3 years.

years
3



Resettlement Section
23 subs. 4 of the Residence Act
Secure and permanent resettlement of beneficiaries of protection from (first) countries of refuge

Humanitarian admission procedure Section 23 subs. 2 and 3 of the Residence Act
Safe and initially temporary admission of beneficiaries of protection from crisis and (first) countries of refuge

Relocation procedure Art. 17 subs. 2 Dublin III
Regulation Admission of asylum seekers from highly burdened EU Member States to carry out the asylum procedure

Standard assessment
As a rule, the BAMF reviews the protection status after 3 years.

REJECTION

FORMS OF PROTECTION

DECISION OF THE FEDERAL OFFICE

simple rejection departure period of 30 days	obviously unfounded departure period of 1 week
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	National ban on removal	Subsidiary protection	Refugee protection	Right of asylum
	Section 60 subs. 5 & 7 of the Residence Act	Section 4 subs. 1 of the Asylum Act	Section 3 subs. 1 of the Asylum Act	Art. 16a para. 1 of the Basic Law
residence permit	min. 1 year	1 year +2	3 years	3 years
settlement permit possible	after 5 years	after 5 years	after 3 or 5 years	after 3 or 5 years
access to the labour market	✓*	✓	✓	✓
privileged family reunification	✗	✗	✓	✓

LEGAL REMEDY

voluntary departure
forced return
temporary suspension of removal or residence permit

action dismissed

action successful

*permission from the foreigners authority required until 29.2.2020

If the asylum application is made at a branch office of the Federal Office for Migration and Refugees, proof of arrival (German: *Ankunftsnachweis*) is issued on registration, otherwise a so-called arrival certificate (German: *Anlaufbescheinigung*) is issued, which is converted into proof of arrival after registration at the Federal Office for Migration and Refugees. The proof of arrival serves as proof of the right of residence in Germany and entitles the holder to receive state benefits (e.g. accommodation, medical care and meals) (BAMF 2019c: 11). During their stay in a reception facility, asylum seekers receive living benefits in kind and a monthly allowance to cover their personal everyday needs, which are regulated by the Act on Benefits for Asylum Seekers.

Asylum procedure counselling (German: *Asylverfahrensberatung, AVB*)

Section 12a ‘Asylum procedure counselling’ of the Asylum Act entrusts the Federal Office for Migration and Refugees with the implementation of independent state asylum procedure counselling. Before submitting their application, in the first phase, all asylum seekers are provided with information on the asylum procedure and return options in obligatory group talks. In the second phase, voluntary, individual asylum procedure counselling is carried out in individual discussions from the time before the application is submitted until the conclusion of the official procedure by the Federal Office for Migration and Refugees or by welfare organisations.

Application, Dublin procedure and asylum interview

After applying for asylum and registering, the personal asylum application is made at a branch office of the Federal Office for Migration and Refugees. Before an asylum application is assessed by the Federal Office for Migration and Refugees in the national procedure, it is first clarified whether Germany is responsible for the assessment according to the responsibility criteria of the Dublin III Regulation ((EU) 604/2013). If there are indications that another Member State is responsible, a request is made to that Member State to admit or readmit the applicant. The requested Member State normally consents within the answer period if it considers the request to be justified (BAMF 2020c: 25). If the requested Member State considers the request to be unjustified, it must expressly reject it. Otherwise, the consent of the requested Member State is deemed to have been given after expiry of the answer period. The transfer must normally take place within six months, otherwise the Member State that made the transfer request is responsible for the procedure.

If international protection has already been granted in another country, a further assessment of the asylum application in Germany is not permitted (BAMF 2019c: 28).

The core of the asylum procedure is the non-public personal asylum interview, where the applicants present their individual reasons for fleeing to the decision-makers of the Federal Office for Migration and Refugees in the presence of a language mediator. “For each asylum application, the Federal Office assesses on the basis of the Asylum Act whether one of the four forms of protection – entitlement to asylum⁷⁰, refugee protection⁷¹ according to the Geneva Refugee Convention, subsidiary protection⁷² or a national ban on removal⁷³ – applies. Only if none of these forms of protection is applicable is the asylum application rejected [in its entirety]” (BAMF 2019c: 21). After a rejection, or even if subsidiary protection is granted or a ban on removal is issued, the person concerned can appeal against the decision of the Federal Office for Migration and Refugees before an administrative court (German: *Verwaltungsgericht, VG*). After the asylum procedure has been incontestably concluded, a further asylum application (so-called follow-up application) can be filed – among other things if the situation has subsequently changed (Section 71 of the Asylum Act).

70 According to Article 16a of the Basic Law, a person is entitled to asylum and therefore deemed politically persecuted if, in case of return to his or her country of origin, he or she would be subject to a serious human rights violation due to racist reasons, his or her nationality, political opinion, fundamental religious conviction or membership of a particular social group (BAMF 2019c: 22).

71 Refugee protection in accordance with Section 3 subs. 1 of the Asylum Act “is more extensive than entitlement to asylum, and also applies to persecution by non-state players. On the basis of the Geneva Refugee Convention, people are regarded as refugees who, because of a well-founded fear of being persecuted by state or non-state players for reasons of race, religion, nationality, political opinion or membership of a particular social group, are outside their country of origin and nationality, or as stateless individuals are outside of their country of habitual residence” (BAMF 2019c: 23).

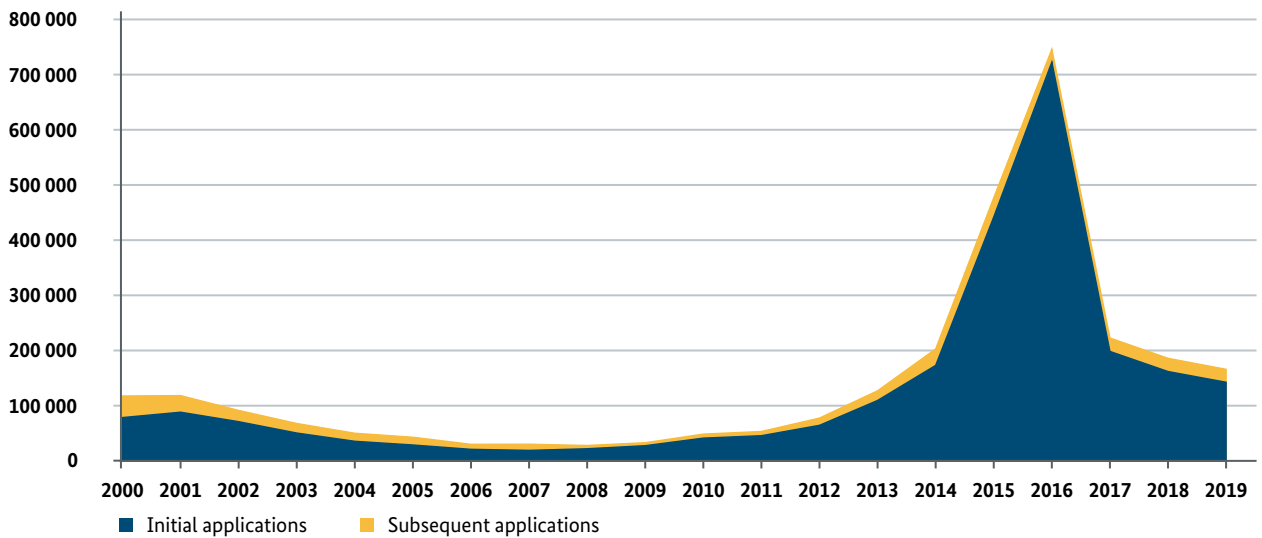
72 Subsidiary protection in accordance with Section 4 of the Asylum Act is, alongside the granting of refugee status, the second form of so-called international protection within the meaning of the European Qualification Directive (Directive 2011/95/EU). People are entitled to subsidiary protection who put forward substantial grounds for the presumption that they are at risk of serious harm in their country of origin and that they cannot take up the protection of their country of origin or do not wish to take it up because of that threat. Serious harm can originate from both governmental and non-governmental players. The following are regarded as constituting serious harm: the imposition or enforcement of the death penalty, torture, inhuman or degrading treatment or punishment, a serious individual threat to the life or integrity of a civilian as a result of arbitrary force within an international or domestic armed conflict” (BAMF 2019c: 24).

73 “A person who is seeking protection may not be returned if return to the destination country constitutes a breach of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), or a considerable concrete danger to life, limb or liberty exists in that country” (BAMF 2019c: 25).

4.1.2 National developments

4.1.2.1 Statistics

Figure 4: Development of annual number of asylum applications (2000–2019)



Source: BAMF 2020c: 11.

Developments in the number of asylum applications

As in the previous year, the number of asylum applicants in 2019 was below the level of 2014 (see Figure 4):

- 166 951 initial and subsequent applications were filed (2018: 185 853 initial and subsequent applications; BAMF 2020c: 11). Of these, 142 509 were asylum applications, about 12% less than in 2018.
- Two European states were among the main nationalities: Turkey and Georgia (BAMF 2020c: 10).
- Compared to the previous year, Georgia replaced Russia among the ten nationalities with the highest number of arrivals. Most asylum applications were filed by people from Syria, Iraq and Turkey (see table 1; BAMF, 2020c: 10).
- The proportion of male applicants was largely unchanged (2019: 56.5%; 2018: 56.7%), minors (2019: 50.1 %; 2018: 48.4%), under 30-year-olds (2019: 73.8 %; 2018: 74.1%), children born in Germany (2019: 22.0 %; 2018: 19.9%; BAMF 2020c: 20).
- The number of pending asylum procedures at the Federal Office for Migration and Refugees continued to decrease (2019: 51 447; 2018: 53 533; BAMF 2020c: 46).

Overall protection rate

The overall protection rate⁷⁴ increased against the previous year from 35.0% to 38.2% (see Figure 5).

- In 2019, 183 954 decisions were made in total on initial and subsequent applications (2018: 216 873).
- 24.5% of the applicants were either recognised as entitled to asylum under Article 16a of the Basic Law or as refugees under the Geneva Refugee Convention (CRSR) (2018: 19.1%).
- 10.6% received subsidiary protection (2018: 11.6%) and national bans on removal were established in 3.2% of cases (2018: 4.4%).
- 29.4% of all decisions resulted in rejections (2018: 34.8%, alongside a share of 32.4% of formal decisions⁷⁵ (2018: 30.2%).
- The protection rate was highest for asylum applicants from Syria (83.7%), Eritrea (73.9%), Turkey (47.4%), Somalia (41.9%), Afghanistan (38.0%) and Iraq (35.0%) (BAMF 2020c: 39ff.).

⁷⁴ The overall protection rate includes all positive decisions granting entitlement to asylum in accordance with Article 16a para. 1 of the Basic Law, refugee protection in accordance with Section 3 subs. 1 of the Asylum Act, subsidiary protection in accordance with Section 4 subs. 1 of the Asylum Act and a national ban on removal in accordance with Section 60 subs. 5 and 7 of the Residence Act.

⁷⁵ Formal decisions are mainly decisions under the Dublin procedure, discontinuation of proceedings due to withdrawal of the application by the asylum applicant and decisions in the follow-up application procedure.

Appeals and court decisions

Appeals were filed against almost half (49.5%) of the decisions on initial and follow-up applications in the asylum procedure in 2019 (2018: 53.6%).⁷⁶ This includes both appeals against a full rejection (in 75% of all rejection decisions an appeal was filed) and appeals against partial rejections. In just under 15% of court decisions on asylum applications, the decision of the Federal Office for Migration and Refugees was overturned (BAMF 2020e). The number of these so-called commitment decisions (German: Verpflichtungsentscheidungen) has decreased continuously in recent years (2018 17.1%; 2017 22.0%)

Revocation and withdrawal procedures

As a rule, at the latest three years after the decisions on eligibility for asylum or refugee status have become

incontestable, the Federal Office for Migration and Refugees has to review whether the conditions for granting the status continue to be met (so-called standard assessment); Section 73 of the Asylum Act). Due to the high number of asylum applications in 2015, 2016 and 2017, a temporary extension of the period was decided, increasing the review period for positive asylum decisions from these years from three to up to five years (Section 73 subs. 7 of the Asylum Act). In 2019, the Federal Office for Migration and Refugees processed the approximately 142 000 final decisions from 2014 and 2015 that needed to be reviewed. A total of 134 228 decisions were made within the framework of the standard assessment and 36 178 on the basis of occasion-related reviews.⁷⁷ The revocation rate was 3.3% (2018: 1.2%; BAMF 2019d: 69, BAMF 2020c: 48). The low rate shows “that the original approvals of asylum and refugee protection were mostly justified” (BAMF 2020f).

⁷⁶ The court statistics published by the Federal Office are not the official court statistics. These are compiled by the Federal Statistical Office. Due to the different counting methods, these statistics are not comparable. The evaluations of the Federal Office for Migration and Refugees are purely person-based and are generated from the Federal Office's own MARIS system (BAMF 2020e).

⁷⁷ Occasion-related revocation and withdrawal reviews are carried out, for example, following indications from foreigners and security authorities. They concern, among other things, cases “in which the protection status can be withdrawn due to deception about identity or nationality, departure to the country of origin, commission of criminal offences or also security-related findings” (BAMF 2020f).

Table 1: Asylum applications and main nationalities (2019 and 2018)

	2019		2018		Change in asylum applications in %	Change in asylum applications in absolute figures
	Asylum applications	Total asylum applications	Asylum applications	Total asylum applications		
Syria	39 270	41 094	44 167	46 164	-11.1%	-4 897
Iraq	13 742	15 348	16 333	18 074	-15.9%	-2 591
Turkey	10 784	11 423	10 160	10 655	6.1%	624
Afghanistan	9 522	11 306	9 942	12 251	-4.2%	-420
Nigeria	9 070	10 533	10 168	11 073	-10.8%	-1 098
Iran	8 407	9 498	10 857	11 846	-22.6%	-2 450
Unclear	3 727	4 228	4 220	4 849	-11.7%	-493
Somalia	3 572	4 154	5 073	5 754	-29.6%	-1 501
Eritrea	3 520	3 743	5 571	5 920	-36.8%	-2 051
Georgia ¹⁾	3 329	3 880	3 764	4 265	-11.6%	-435
Russian Federation ²⁾	3 145	4 464	3 938	5 282	-20.1%	-793
Total Top10³⁾	104 943	115 207	120 429	131 368	-12.9%	-15 486
Other nationalities⁴⁾	37 566	50 731	41 502	53 985	-9.5%	-3 936
In total	142 509	165 938	161 931	185 853	-12.0%	-19 422

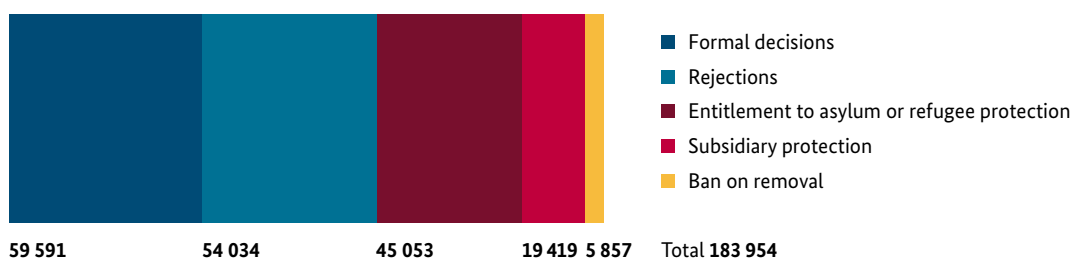
Source: BAMF 2020c: 10 ff., 2020d; 2nd ranking according to the top ten list of initial applications in the reporting year 2018.

¹⁾ Tenth most common nationality in 2019.

²⁾ Tenth most common nationality in 2018.

³⁾ For the year 2018, the total of the ten nationalities with the highest influx includes Russian applicants, who ranked 10th in the year 2018. The total does not include the number of Georgian applicants.

⁴⁾ For 2018, the total of other nationalities includes Georgian applicants. The total does not include the number of Russian applicants.

Figure 5: Decisions in 2019

Source: BAMF 2020c: 40.

4.1.2.2 Legislative changes, case law and measures related to asylum

In the reporting period 2019, numerous legislative measures were passed in the asylum area. With regard to asylum seekers, there were legislative changes within the framework of the so-called migration package both within the responsibility of the Federal Ministry of the Interior, Building and Community (BMI) and the Federal Ministry of Labour and Social Affairs (BMAS) (see also Chapter 2.2, 3, 5, 5.2.2, 7, 10).

Second Data Sharing Improvement Act

The ‘Second Data Sharing Improvement Act’ implemented numerous changes for registration and data exchange on residence and asylum law issues including measures on security-related aspects. Other changes under the Act concern the areas of return and unaccompanied minors (see Chapters 5.1.2, 10).

Important changes concerned the further development of the possibilities for using the Central Register of Foreign Nationals: On the one hand, further authorities were authorised to retrieve data from the Central Register of Foreign Nationals “in real time” in an automated procedure (youth welfare offices, citizenship and displaced persons authorities, German pension fund institutions, the Federal Foreign Office and its diplomatic missions and the Federal Office of Justice (German: Bundesamt für Justiz und Verbraucherschutz))

(BMI 2019j). On the other hand, the legal changes give the Central Register of Foreign Nationals number an even more central function: it is now used as a “cross-procedural identifier [...] for the purpose of unambiguous assignment” when dealing with authorities (BMI 2019j).

In addition, the Second Data Sharing Improvement Act expanded the security alignment procedure. The procedure, which is automatically initiated after an entry has been made in the Central Register of Foreign Nationals, allows the security authorities to check “whether there are, in particular, any terrorism-related findings or other serious security concerns about a person” (BMI 2019j). As of 1 May 2020, the procedure will also be carried out in asylum revocation or withdrawal procedures, in transfer requests from another Member State and in resettlement procedures, other humanitarian admission procedures and redistribution procedures of asylum applicants (Section 2 subs. 2a Central Register of Foreign Nationals Act; BMI 2019j).

The legislative proposal met with criticism from various experts. At a hearing in the Bundestag’s Committee on Internal Affairs, the federal commissioner for data protection and freedom of information, Ulrich Kelber, complained about the rapid pace and the many amendments to the First Data Sharing Improvement Act, which meant that data protection regulations could not be complied with in the required quality. The then vice president of the Federal Office for Migration and

Information box: Legislative changes within the framework of the migration package

- ‘Second Data Sharing Improvement Act’ (entry into force: 9 August 2019)
- ‘Second Act to Improve the Enforcement of the Obligation to Leave the Country’ (entry into force: 21 August 2019)
- ‘Third Act on the Amendment of the Act on Benefits for Asylum Seekers’ (entry into force: 01 September 2019)
- Aliens Employment Promotion Act (entry into force: 01 August 2019)

Refugees, Markus Richter, on the other hand, welcomed the law on the grounds that the legal changes would lead to “data economy and simplification of work” (Deutscher Bundestag 2019a; see also Chapter 5.1.2, 10).

Second Act to Improve the Enforcement of the Obligation to Leave the Country

The Second Act to Improve the Enforcement of the Obligation to Leave the Country, also known as the Orderly Return Act, which came into force on 21 August 2020, introduced benefit reductions for various groups of persons in the context of the Act on Benefits for Asylum Seekers. For example, the provisions regarding benefit reductions due to violations of the duties to cooperate in the asylum procedure were specified and expanded (Section 1a subs. 5 of the Act on Benefits for Asylum Seekers).

The law also stipulates that asylum seekers whose asylum application is the responsibility of another Member State according to the Dublin Regulation are only entitled to limited benefits. They only receive benefits to cover their food and accommodation needs, including heating, as well as personal hygiene and health care (Section 1a subs. 4 of the Act on Benefits for Asylum Seekers). Asylum seekers who have already been granted international protection in another EU Member State are now no longer entitled to benefits under the Act on Benefits for Asylum Seekers. If assistance is required, until departure so-called bridging benefits (German: Überbrückungsleistungen) are granted once within two years, but for a maximum of two weeks. The bridging benefits are to be provided as benefits in kind and only include benefits to cover their food and accommodation needs, including heating, as well as personal hygiene and health care (Section 1 subs. 4 in conjunction with Section 1a subs. 1 second sentence of the Act on Benefits for Asylum Seekers). Exceptions to this may be made in individual cases of particular hardship.

For some time now, there has been disagreement about the constitutional evaluation of the benefit reductions in the context of the Act on Benefits for Asylum Seekers (SVR 2019a: 13; Decker 2020: Section 1a of the Act on Benefits for Asylum Seekers, marginal No. 3). According to the opinion of the German Bar Association (German: Deutscher Anwaltverein, DAV) on the draft bill of the law, the “entitlement to a minimum subsistence level fit for human beings [...] should not be made dependent on the possibility to return to the country of origin” (DAV 2019a: 4). The Federal Ministry of the Interior, Building and Community justifies the benefit reductions on the

grounds that they apply on an occasion-related basis in case of violation of the duties to cooperate and that even after the reduction, the physical subsistence level is still maintained (BMI 2019q). Thus, it is also recognised “that it must be possible for the legislator to counter the abuse of social benefit systems in general or the ineligible claiming of tax-financed social benefits in particular” (Decker 2020: Section 1a of the Asylum Act marginal No. 3).

In addition, the amendments to Section 47 subs. 1 of the Asylum Act require asylum applicants to reside in a reception facility until the Federal Office for Migration and Refugees has decided on the asylum application – in the case of a rejection, until they depart the country – but for no longer than 18 months. For families, the maximum duration is six months. If, among other things, people do not comply with their duties to cooperate or provide false information about their identity, they can also be obliged to live in the reception facility beyond the period of 18 months. At the same time, the provisions for access to the labour market during the stay in a reception facility were changed. Whereas previously, persons residing in a reception facility were not entitled to engage in gainful employment, from now on exceptions to this prohibition apply, among other things if the asylum procedure has not been incontestably concluded within nine months of filing the application (Section 61 subs. 1 second sentence of the Asylum Act). Persons who have held a temporary suspension of removal in accordance with Section 60a of the Residence Act for at least six months may also be permitted to engage in employment (Section 61 subs. 1 second sentence of the Asylum Act).

After the gradual introduction of the asylum procedure counselling from August 2018 as part of a pilot project at several Federal Office for Migration and Refugees locations, arrival, decision and return facilities (German: Ankunfts-, Entscheidungs- und Rückkehr-Einrichtungen, AnKER) and functionally equivalent facilities, with the ‘Second Act to Improve the Enforcement of the Obligation to Leave the Country’, Section 12a of the Asylum Act (‘asylum procedure counselling’) was introduced into the Asylum Act. The provision creates the legal basis for “voluntary, independent state asylum procedure counselling” (Section 12a first sentence of the Asylum Act). In 2019, the extension of asylum procedure counselling to all Federal Office for Migration and Refugees locations was in preparation (BAMF 2019e). Some actors question the independence of the state asylum procedure counselling. Thus, for example, in its statement on the draft law, the Paritätische Gesamtverband endorsed “asylum procedure counselling that is independent of the authorities” (Der Paritätische 2019a: 4).

Third Act on the Amendment of the Asylum Seekers' Benefits Act

The 'Act on the Amendment of the Act on Benefits for Asylum Seekers' established and defined the need rates for basic benefits in accordance with Section 3 of the Act on Benefits for Asylum Seekers on the basis of the Income and Consumer Survey (German: Einkommens- und Verbraucherstichprobe, EVS) 2013 and the Standard Needs Determination Act (German: Regelbedarfs-Ermittlungsgesetz,⁷⁸ RBEG)⁷⁹. The last amendment took place in 2016. Thus, the needs levels for adults were restructured and due to the "deviating needs situation, a separate needs level [was] created for accommodation in collective accommodation" (Deutscher Bundestag 2019p: 3). The amendment includes the removal of the components for electricity and housing maintenance costs from the needs rates for necessary needs, as these services are provided as benefits in kind. The restructuring of the needs levels resulted in a reduction of the total standard needs by 44 euros for single adults in collective accommodation⁸⁰. As previously, recipients of basic benefits under the Act on Benefits for Asylum Seekers receive "on average significantly lower cash benefits" than beneficiaries under the Twelfth Book of the Social Security Code (SGB XII; Deutscher Bundestag 2019p: 3).

The law also extends the prior residence period for the receipt of so-called analogue benefits (German: Analogleistungen) according to which people receive benefits under the Social Security Code after 15 months of residence, to 18 months. In addition, the amendments to the Act on Benefits for Asylum Seekers address aspects of the integration of people who receive benefits under this Act. Thus, the law closed the funding gap for trainees and students and created an incentive to take up voluntary activities (see Chapter 6.1.1).

78 Standard Needs Determination Act in accordance with Section 28 of the Twelfth Book of the Social Security Code.

79 In 2012, the Federal Constitutional Court (German: Bundesverfassungsgericht) ruled that the level of asylum seeker benefits was "clearly inadequate" because it had not been changed since 1993 and obliged the legislature "to make new provisions to ensure the minimum subsistence level fit for human beings was secured" (Federal Constitutional Court, judgement of 18 July 2012 - 1 BvL 10/10 - [ECLI:DE:BVerfG:2012:1s20120718.1bv1001010]). Since then, the Federal Government has been obliged to adjust asylum seeker benefits at regular intervals (Section 3a subs. 4 and 5 of the Act on Benefits for Asylum Seekers).

80 The needs rates were also adjusted: needs level 1 - 2019: 344 euros, 2016: 354 euros; needs level 2 - 2019: 310 euros, 2016: 318 euros; needs level 3 - 2019: 275 euros, 2016: 284 euros; needs level 4 - 2019: 275 euros, 2016: 276 euros; needs level 5: 2019: 268 euros, 2016: 242 euros, needs level 6: 2019: 214 euros, 2016: 214 euros (Section 3a of the Act on Benefits for Asylum Seekers; BMAS 2016: 3).

In its statement on the draft law, Pro Asyl criticised that the Act on Benefits for Asylum Seekers was "increasingly becoming an obstacle to integration due to the various reductions in benefits (Pro Asyl 2019a: 1f.). The Association of Towns and Municipalities (German: Städte- und Gemeindebund) on the other hand, welcomed in its statement the restructuring of the needs levels, especially the introduction of a special needs level for persons entitled to benefits in collective accommodation, as this makes it clear "that the benefit rate [...] is not comparable to that of a single-person household" (DStGB 2019: 2).

Aliens Employment Promotion Act

The measures introduced by the Aliens Employment Promotion Act also partly concern the asylum area. For example, the special provision on the early integration into the labour market of people with permission to remain pending the asylum decision who have a good chance of being permitted to remain lawfully and permanently, has been extended indefinitely. Accordingly, this group of people can claim active labour market support benefits, even if they are not yet allowed to take up gainful employment (Section 39a of the Social Security Code III). Further amendments to the Aliens Employment Promotion Act are dealt with in the Chapters 3.1.2 and 6.1.1.

Ordinance on the admission of foreigners for the purpose of taking up employment

The 'Ordinance amending the Ordinance on the Integration Act' (German: Verordnung zur Änderung der Verordnung zum Integrationsgesetz) and the 'Ordinance on the Admission of Foreigners for the Purpose of Taking up Employment', which came into force on 6 August 2019, permanently eliminated the priority check throughout Germany for access to the labour market for asylum seekers with permission to remain pending the asylum decision and for people whose removal has been suspended⁸¹. The work prohibitions for persons living in a reception facility, among others, remain unaffected.

81 The priority check was suspended for a total of three years in 133 of 156 agency districts by the Ordinance on the Integration Act' (German: Verordnung zum Integrationsgesetz), which entered into force in 2016, and the Ordinance on the admission of foreigners for the purpose of taking up employment. The 23 remaining agency districts were in Bavaria, Mecklenburg-Western Pomerania and North Rhine-Westphalia (see also EMN/BAMF, 2017: 40).

Church asylum

Since the introduction of new procedural rules⁸² on church asylum for Dublin cases in August 2018 following a decision by the Standing Conference of Interior Ministers (BAMF 2018a), the number of church asylum procedures also fell significantly in 2019. From January to December 2019, according to statistics from the Federal Office for Migration and Refugees, a total of 635 Dublin-related church asylum notifications were received. In the 480 hardship dossiers submitted here, the Federal Office for Migration and Refugees exercised the right to transact in its own name in 16 cases. In 459 cases, no right to transact in its own name was exercised, and in five cases there were other settlements. The extension of the transfer periods introduced in 2018 was challenged several times. In 2019, this rule was frequently rejected in court decisions. Thus, for example, the Higher Administrative Court (German: Verwaltungsgerichtshof, VGH) of Hesse ruled that “an asylum applicant in church asylum [...] is not a fugitive in accordance with Art. 29 subs. 2 second sentence of the Dublin III Regulation if the authorities know where the asylum applicant is staying” (Higher Administrative Court of Hesse, ruling of 12. September 2019⁸³). At the end of 2019, the decision of the Federal Administrative Court (German: Bundesverwaltungsgericht) on this matter was still pending (Deutscher Bundestag 2020e: 36).

4.1.2.3 Changes and measures in the area of refugee management

Arrival, decision-making and return facilities in the piloting phase

After the first so-called ‘AnKER facilities’ were opened in Bavaria, Saxony and Saarland in 2018, three more Länder, Mecklenburg-Western Pomerania, Schleswig-Holstein and Brandenburg, implemented the concept of AnKER or functionally equivalent facilities in 2019. At the end of 2019, the AnKER facility at the location in Donauwörth, Bavaria, was relocated to Augsburg, thereby converting the branch office Augsburg into an AnKER facility. At the end of 2019, a total of 13 AnKER or functionally equivalent facilities were in operation. All actors directly involved in the asylum process are

represented in the facilities. The aim is to bundle the processing of asylum procedures from registration to the distribution to the local authorities or return (BAMF 2018b). The pilot phase lasts until 2020. The Federal Office for Migration and Refugees Research Centre is conducting a scientific evaluation of the AnKER facilities (Mediendienst Integration 2019b).

There are differing opinions on the concept of AnKER facilities. On the one hand, the short routes and the bundling of all the relevant agencies under one roof are considered positive for the procedures. On the other hand, NGOs, several welfare associations, lawyers and researchers criticised the concept (EMN/BAMF 2018: 42 f.). On 26 September 2019, there was a hearing on the AnKER facilities in the Legal Affairs Committee in the Bavarian Land parliament. At the hearing, experts complained about “inadequate or lacking independent counselling” of asylum seekers, the “excessively long duration of stay” and the fact that there is “little to no child-friendly accommodation” (Süddeutsche Zeitung 2019). The Bavarian government and the Federal Office for Migration and Refugees, on the other hand, argued that “asylum procedures are now faster and more effective” (Süddeutsche Zeitung 2019).

Closure of arrival centres in the Länder

Due to declining number of applications and the resulting need for location decisions by individual Länder and the Federal Office for Migration and Refugees, further facilities were closed in 2019 (2018: 2 facilities; 2017: 26 facilities; EMN/BAMF 2019: 44). In 2019, the branch offices in Hermeskeil, Diez and Ingelheim/Bingen and Donauwörth were closed. In Figure 6 the active locations of the Federal Office for Migration and Refugees as of 1 January 2020 are shown.

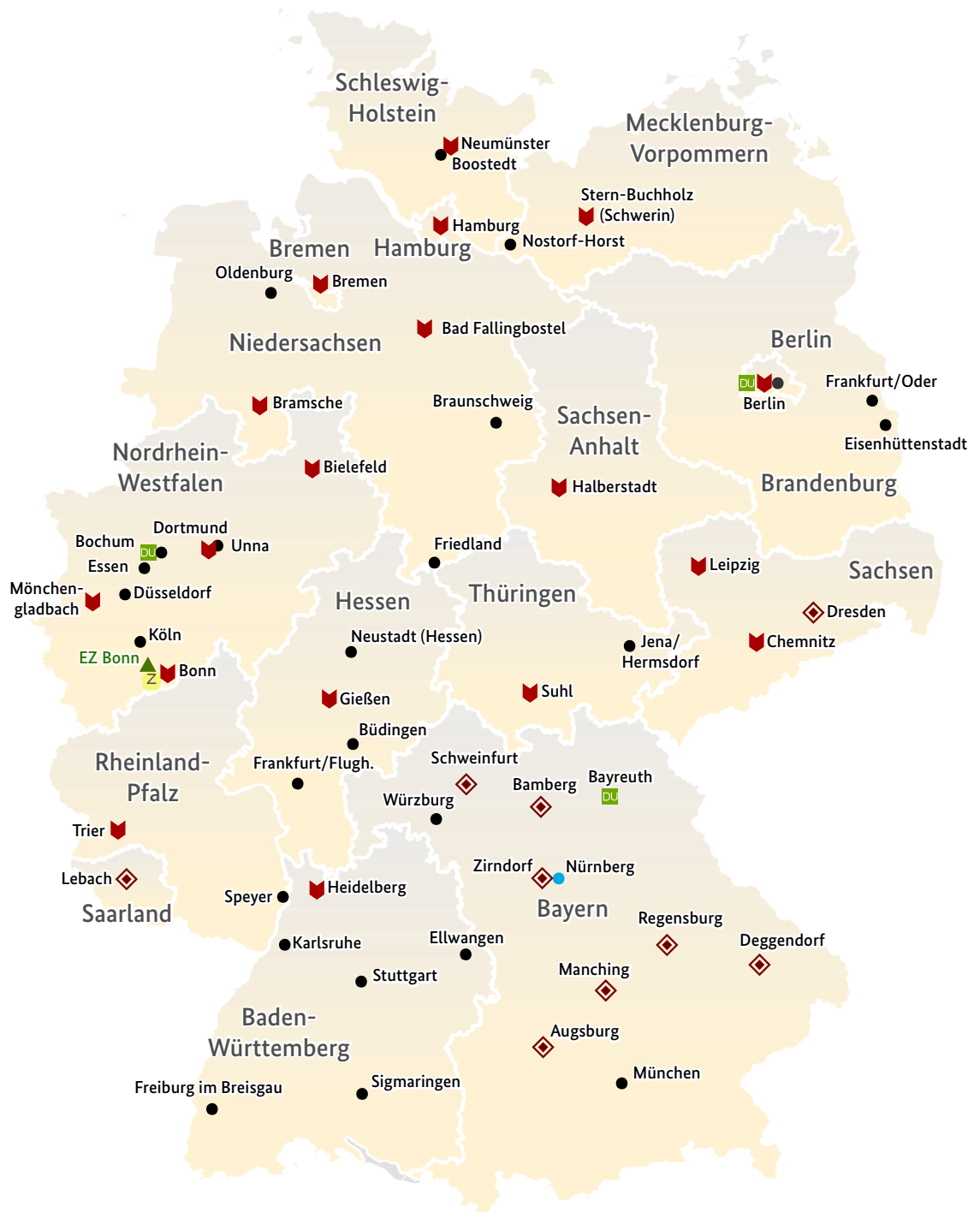
Investigations into irregularities and allegations of corruption in asylum decisions at the Bremen branch office

Due to findings of possible irregularities at the branch office of the Federal Office for Migration and Refugees in Bremen, an investigation was already initiated by the Federal Office’s internal investigation department at the end of 2017 and the public prosecutor’s office was called in. The allegations related to suspected unlawful granting of asylum and acceptance of benefits in office. Against this background, the Federal Minister of the Interior decided in May 2018 that no more asylum decisions should be taken at the Bremen branch office until the investigation proceedings and the ongoing reviews were fully concluded (BMI 2018b). After several structural changes were made, the processing

⁸² Through the new procedural rules, the 18-month transfer period applies, among other things, if the hardship dossier is not submitted in time or the church asylum is not left in time after the right to transact in its own name is exercised. Thus, persons for whom the examination of the facts does not reveal a special case of hardship are considered ‘fugitive’ in church asylum, which extends the transfer period.

⁸³ Higher Administrative Court of Hesse, ruling of 12. September 2019 - 6 A 1495/19.Z.A [ECLI:DE:VGHHE:2019:0912.6A1495.19.00].

Figure 6: Active locations of the Federal Office for Migration and Refugees (as of 1 January 2020)



Active locations* of the Federal Office for Migration and Refugees

- Location
- Headquarter
- ▲ Branch Office (Decision-making centre)
- ◆ Branch Office in an Anker facility
- ▾ Branch Office in an Arrival centre
- Branch Office (Dublin centre)
- Z Branch Office (Dispatch centre)

Source: BAMF

*Several facilities may be possible at one location.

of asylum cases was resumed at the Bremen branch office as of 15 November 2018. In 2019, the investigations continued and in August 2019 the Bremen Public Prosecutor's Office brought charges against the former head of the Bremen branch office and two lawyers at the Land court (Zeit Online 2020a).

4.1.3 Developments related to the EU

Dublin transfers to other EU Member States

In 2019, Germany submitted a total of 48 847 transfer requests to the Member States in the context of the Dublin procedure (2018: 54 910; see Figure 7 and Figure 8).

- 18 801 transfer requests were rejected and 29 794 were granted. A total of 8 423 transfers took place (2018: 9 209; see Figure 7).
- Most transfers were to Italy (2 575), France (1 212) and Spain (591). The main nationalities were Nigeria, Iraq and Iran (BAMF 2020: 29 f.; see Figure 8 and Table 2).
- The number of transfer requests from other Member States to Germany decreased, as it had in previous years, from 25 008 requests in 2018 to 23 717 in 2019.
- 6 087 people were actually transferred to Germany (2018: 7 580), with the highest number of transfers coming from France (2 022 transfers), the Netherlands (1 125 transfers) and Greece (730 transfers).

Most of the people transferred to Germany were of Afghan, Syrian or Iraqi nationality (BAMF 2020c: 27ff.).

After the Commission recommended that Member States resume Dublin transfers to Greece from spring 2017, Germany resumed requests in the Dublin procedure for non-vulnerable persons, however only a few individual cases were transferred. In 2019, there were 9 870 transfer requests to Greece (2018: 7 079), of which 576 (2018: 183) were approved. However, there were ultimately only 20 transfers to Greece in 2019 (2018: 6) (BAMF 2020c: 29f.; Deutscher Bundestag 2020e: 52).

In addition, Germany has not carried out any more transfers to Hungary under the Dublin procedure since May 2017, as the EU Commission had previously initiated an asylum law related infringement procedure against Hungary and Hungary did not provide any individual assurances that transferred asylum seekers would be treated in accordance with EU law (Deutscher Bundestag 2019q: 34f.; BAMF 2020c: 30).

After the Federal Constitutional Court (ruling of 17 September 2014⁸⁴) and the European Court of Human

⁸⁴ Federal Constitutional Court, ruling of 17 September 2014 - 2 BvR 1795/14 [ECLI:DE:BVerfG:2014:rk20140917.2bvr179514].

Figure 7: Dublin admission and readmission requests and transfers (2010–2019)

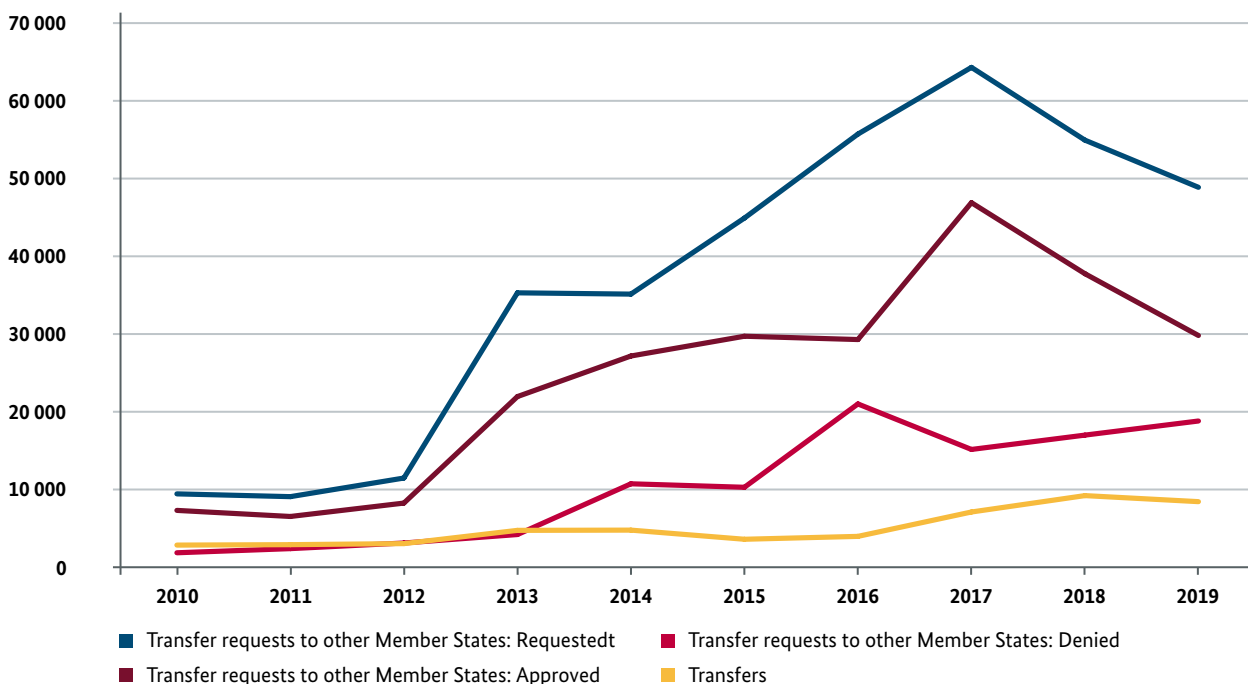
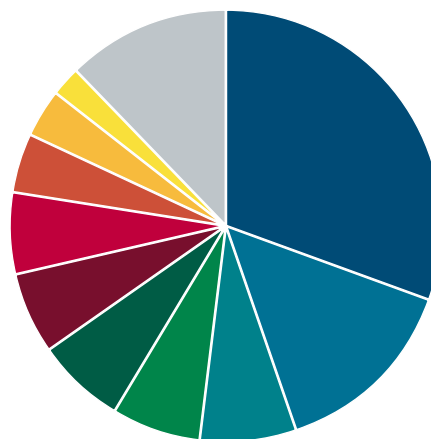


Figure 8: Dublin transfers from Germany to the Member States in 2019

Italy	2 575
France	1 212
Spain	591
Netherlands	571
Sweden	565
Austria	517
Poland	508
Switzerland	375
Belgium	293
Portugal	193
Other Member States	1 023
In Total	8 423



Source: Deutscher Bundestag 2020f: 12.

Table 2: Number of Dublin transfers from Germany by most common nationality in 2019

Nationality	Number of persons
Nigeria	1 055
Iraq	804
Iran	665
Russian Federation	605
Afghanistan	582
Guinea	435
Somalia	373
Syria	310
Pakistan	298
Eritrea	242

Source: Deutscher Bundestag 2020f: 12.

Rights (ECHR) (Tarakhel case, 4 November 2014⁸⁵) stopped Dublin transfers of families with children to Italy in 2014 due to the poor accommodation situation, the Federal Office for Migration and Refugees was obliged by the Federal Constitutional Court to “ensure that children up to the age of three were provided with secure accommodation in Italy” (Informationsverbund Asyl & Migration 2019). In practice, this meant that families with young children were no longer transferred to Italy. In 2019 the situation changed due to a letter from the Italian government on 8 January 2019, which provided “a general assurance of adequate accommodation for all persons” including families with children under three years of age (Deutscher

Bundestag 2019r: 21f.). As a result, from March 2019, the Federal Office for Migration and Refugees issued transfer requests to Italy for all groups of persons, including families with children (Deutscher Bundestag 2020: 33).

However, the general assurance does not apply to children: In its ruling of October 10, 2019, the Federal Constitutional Court saw indications that, even taking into account the general assurance given by the Italian authorities on 8 January 2019, families with (small) children cannot in fact be provided with adequate accommodation in Italy⁸⁶. Thus, under the aforementioned

85 ECHR, judgement of 4 November 2014 - 29217/12 [ECLI:CE:ECHR:2014:1104JUD002921712].

86 By virtue of Italian Decree No. 113/2018, also known as the ‘Salvini Decree’, people lose their right to accommodation if they “did not use the accommodation assigned to [them] during

conditions, “it may be required under constitutional law as well as under European and Convention law that the competent authorities and courts inform themselves about the conditions in another state before returning an asylum seeker to that state and, if necessary, obtain assurances from the competent authorities” (Federal Constitutional Court, ruling of 10 October 2019⁸⁷). This requirement of the Federal Constitutional Court to obtain further information or even specific individual assurances regarding appropriate accommodation for families with young children is now being implemented by the Federal Office for Migration and Refugees. In case of other persons classified as vulnerable, the needs of the person “are to be taken into account at the latest in the transfer procedure in cooperation with the respective Member State, foreigners authority and Federal Police” (Deutscher Bundestag 2020f: 37f.).

Judgements of the European Court of Justice

On 19 March 2019, the European Court of Justice (ECJ) published two relevant judgements in relation to Dublin transfers. In its decision in the Jawo case, the ECJ emphasised, with reference to Article 4 of the Charter of Fundamental Rights of the European Union (CFR), that transfers to inhumane or degrading situations are unlawful (ECJ judgement of 19 March 2019⁸⁸). A new feature is that this is independent of whether the situation is inhumane during or after the asylum procedure. Critics, including The Left Party, see this as

their previous stay in Italy or left the accommodation without giving notice”, as this is “assumed to be a voluntary departure” (Higher Administrative Court Baden-Wuerttemberg, judgement of 29 July 2019 - A 4 S 749/19, marginal No. 6886; see also Schweizerische Flüchtlingshilfe 2019: 14). Persons who have been transferred from Germany to Italy may also be affected by this regulation. In order to be re-admitted to the accommodation system in Italy, the person concerned must reapply for the accommodation. Until the decision is made, there is no access to state accommodation for the persons concerned (Higher Administrative Court Baden-Wuerttemberg, judgement of 29 July 2019, marginal No. 68). During this time, the affected persons can use accommodation provided by non-governmental organisations, volunteers and churches – if available (Higher Administrative Court Baden-Wuerttemberg, judgement of 29 July 2019, marginal No. 60). The Higher Administrative Court Baden-Wuerttemberg concluded from this that “the accommodation situation is partly difficult and a relatively small proportion of the total number of migrants is actually homeless or lives in occupied houses. However, these findings do not yet justify the assumption of systemic deficiencies that could constitute a violation of the rights under Article 4 CFR [Charter of Fundamental Rights of the European Union, CFR] and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Higher Administrative Court Baden-Wuerttemberg, judgement of 29 July 2019, marginal No. 61).

87 Federal Constitutional Court, ruling of 10 October 2019 - 2 BvR 1380/19 [ECLI:DE:BVerfG:2019:rk20191010.2bvr138019].

88 ECJ, judgement of 19 March 2019 - C-163/17 [ECLI:EU:C:2019:218].

a ban on transfers to Italy because of the accommodation situation there (Deutscher Bundestag 2019: 2). Others argue that due to the very high threshold set by the ECJ for degrading treatment, this does not mean that the transfer is fundamentally impossible (Keienborg 2019; Higher Administrative Court Baden-Wuerttemberg, judgement of 29 July 2019⁸⁹). However, the situation is different for the transfer of children (see above; Federal Constitutional Court, ruling of 10 October 2019).

In the Arib case, the ECJ ruled that the Return Directive (2008/115/EC) applies to third-country nationals captured after unauthorised entry across an internal border and that a simplified national return procedure may not be carried out, even if temporary border controls have been introduced at the internal border (ECJ judgement of 19 March 2019⁹⁰).

4.2 European Asylum Support Office

4.2.1 Background and general context

The European Asylum Support Office (EASO) is a body of European Union law based in Malta. The legal basis for EASO is Regulation (EU) No.439/2010 of 19 May 2010.⁹¹ The main tasks of EASO according to the Regulation are:

- supporting Member States whose asylum and reception systems are under particular pressure with operational measures or coordinating such support,
- strengthening practical cooperation between Member States in the area of asylum; and
- contributing to the further development of the CEAS, including cooperation with the EU’s neighbouring states (the so-called external dimension of the CEAS).

In recent years, efforts to reform EASO into a ‘EU Agency for Asylum’ have continued to develop. After the EU Commission had already published a proposal for the reform of EASO on 4 May 2016, which was to replace the previous legal basis and expand the mandate of the Office (KOM 2016a), on 29 June 2017 the Council and Parliament agreed on a preliminary

89 Higher Administrative Court Baden-Wuerttemberg, judgement of 29 July 2019 - A 4 S 749/19 [ECLI:DE:VGHBW:2019:0729.A4S749.19.00].

90 ECJ, judgement of 19 March 2019 - C-444/17 [ECLI:EU:C:2019:220], marginal No. 38.

91 Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office

joint text which was approved by the Committee of Permanent Representatives on 6 December 2017 with a few reservations. Passages that referred to other elements of the CEAS package were essentially excluded. On 12 September 2018, the EU Commission presented an amended proposal⁹², which, however, did not gain a majority in the Committee of Permanent Representatives and was rejected by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs on 10 December 2018. By the end of the reporting period, there had been no further negotiations or progress regarding the proposal, also because, due to the package approach, an agreement on the other CEAS elements theoretically has to be reached first (see Chapter 2.2.1).

4.2.2 Developments related to the EU

European Asylum Support Office (EASO)

EASO further expanded its operational support for Member States in 2019 and agreed new operational plans with Italy, Greece, Cyprus and, for the first time, Malta.

- Greece: EASO carried out more than 40 000 registrations and Asylum Support Teams (ASTs), consisting of staff from Member States and EASO, completed more than 8 000 interviews.
- Italy: ASTs assisted with the registration of 19 722 applicants, the preparation and processing of 26 933 documents for the decision-making process and 38 761 documents for preparation of the interviews. This contributed to a reduction of the application backlog of around 30 000 cases by the end of the year.
- Cyprus: EASO supported 8 704 registrations of applicants (70% of the annual total) and conducted 790 interviews.
- Malta: EASO and Malta signed a first operational plan in July 2019. As a result, EASO conducted 2 008 registrations and 176 interviews.

Alongside national tasks, the Federal Office for Migration and Refugees supported EASO's operations in 2019 on approximately 6 300 operational days (2018: around 10 300 operational days) with a total of 99 employees (2018: 136), of which 82 were deployed in Greece, 17 in Italy, 4 in Cyprus and 7 in Malta (multiple

deployments per person possible). Given the significant rise in the number of landings in the summer and autumn months of 2019, EASO had to significantly increase its personnel requirements, especially in Greece (from 45 at the beginning to 84 at the end). To comply with this request the Federal Office for Migration and Refugees sent a total of 26 decision-makers from September to the end of 2019 alone.

In addition, the Federal Office for Migration and Refugees contributed to EASO training measures, for example by providing trainers, and collaborated in the development of training modules. In the process, staff of the Federal Office for Migration and Refugees were also trained in EASO training sessions and in courses based on EASO training modules.

In other respects, the main focus of work in connection with EASO last year was on:

- strengthening the role of joint training sessions and professional development in the area of asylum,
- improving the quality of asylum procedures and decisions,
- preparing shared information on countries of origin (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) for the analysis of trends,
- the timely and comprehensive provision of operational support to Member States,
- promoting synergies between migration and asylum practices, including the return of people whose asylum claims have been rejected,
- supporting the external dimension of the CEAS.

Reform of the Common European Asylum System

During a visit to Berlin on 8 November 2019, the new EU Commission President Ursula von der Leyen announced the reform of the Common European Asylum System in a new migration pact in the first half of 2020 (see Chapter 2.2.1).

⁹² European Commission: Amended proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing the Regulation (EU) No. 439/2010, 12 September 2018, COM/2018/633.

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

4.3.1 Background and general context

Germany has been conducting Humanitarian Admission Programmes (German: humanitäres Aufnahmeprogramme, HAP)⁹³ since 1956. Admissions in the context of a HAP are usually temporary admissions where permanent residence is not initially assumed; rather, the admission is intended to bridge the states of crisis, war and danger in the country of origin. The persons concerned receive a residence permit in accordance with Section 23 subs. 2 of the Residence Act, which is issued for three⁹⁴ years with the possibility of extension and entitles them, among other things, to take up gainful employment.

The resettlement procedure is an internationally recognised policy instrument for dealing with protracted refugee crises. People who have been identified by the UNHCR as particularly vulnerable according to defined criteria of the Geneva Refugee Convention and for whom both return to the country of origin and integration in the (current) country of refuge are excluded in the foreseeable future are given the opportunity to legally enter countries that are willing to admit them with the aim of settling there permanently. The resettlement is carried out by the Federal Office for Migration and Refugees in cooperation with the UNHCR, the International Organisation for Migration (IOM), the corresponding national agencies of the countries of first refuge as well as the German diplomatic missions there and, in the context of the EU Resettlement Programme funded by the EU Asylum, Migration and Integration Fund (AMIF), with the financial participation of the EU Commission. Resettlement refugees receive a residence permit in Germany in accordance with Section 23 subs. 4 of the Residence Act, which entitles them to engage in gainful employment and to claim social benefits and is issued for an initial period of three years.

⁹³ For an overview of the individual Humanitarian Admission Programmes since 1956, see Grote/Bitterwolf/Baraulina 2016: 15.

⁹⁴ In the order of the Federal Ministry of the Interior in accordance with Section 23 subs. 2, 3 in conjunction with Section 24 of the Residence Act on the temporary admission of vulnerable persons from Syria and countries bordering Syria as well as Egypt and Libya of 18 July 2014, the duration of the residence permit was two years when it was first issued. Since the order of 11 January 2017, the duration of the residence permit is three years.

In a pilot phase from 2012 to 2014, Germany admitted 300 vulnerable people per year. Since then, there has been a steady increase of the resettlement admissions and an increase in the admission quota from 500 persons to 1 600 admission places registered for the 2018/2019 EU Resettlement Programme. The national resettlement quota for Germany is determined by agreement between the Federal Government and the Länder.

In addition, Germany took in refugees under the EU relocation procedure, which has since been ended (see Table 3). Germany also participates in the humanitarian admission of vulnerable Syrians from Turkey under the EU-Turkey Declaration and has pledged monthly admissions for up to 500 people. In addition, in several Länder there are Land admission programmes based on Section 23 subs. 1 of the Residence Act.

4.3.2 National developments

Extension of the privately financed Land admission programmes

The same five Länder as in 2018 have extended their privately financed Land admission programmes beyond 2019. The basis for this are resolutions from 2013, which enabled the establishment of Land admission programmes for Syrian and partly Iraqi and stateless refugees (from the neighbouring states)⁹⁵ (Deutscher Bundestag 2018c: 7). These include Berlin (extension until 31 December 2020), Brandenburg (extension until the end of the legislative period in 2024), Hamburg (extension until 30 November 2020), Schleswig-Holstein (extension until 30 June 2020) and Thuringia (extension until 31 December 2020). In the other eleven federal states, the privately financed state admission programmes expired in the years following their introduction in 2013 (Resettlement.de 2020a).

For each person applying, a declaration of commitment (guarantee) has to be submitted in which the provider of the commitment declares that he or she will bear all costs of the family members' stay and provides evidence of a corresponding income. The assumption of costs is limited to a period of five years (Section 68 subs. 1 of the Residence Act). In this context, all costs are to be covered by the providers of the commitment, the "persons who entered do not receive any social benefits with the exception of [the] provision of care in the event of illness" (Resettlement.de 2020b).

⁹⁵ All the Länder except Bavaria had set up their own Länder admission programmes in the wake of the Bundestag's decision.

Table 3: Successful entries of relocation asylum seekers (2015–2019)

Year	In total	Greece	Italy
2015	21	10	11
2016	1 078	634	444
2017	9 168	4 729	4 439
2018	573	18	555
2019	2	0	2
In total	10 842	5 391	5 451

Source: BAMF 2019d: 75.

Humanitarian Land admission programmes

On 25 June 2018, the Land parliament of Schleswig-Holstein had submitted an application asking the Land government to prepare a Land admission programme under Section 23 subs. 1 of the Residence Act. A total of 500 vulnerable persons, primarily women and children, were to be admitted by 2022 in a series of collective entries (Resettlement.de 2018). In 2019, Schleswig-Holstein admitted around 100 vulnerable persons⁹⁶ from the country of refuge Egypt (Deutscher Bundestag 2019s: 19).

In the context of the Brandenburg Land admission programme, a total of 72 vulnerable Yazidis from Iraq were admitted in 2019. The Land allocated 500 000 euros for the year 2019 (Staatskanzlei Brandenburg 2019). The state parliament of Brandenburg had approved the aid programme for the persecuted ethnic group in December 2016, but it had taken a total of almost three years before the first people were actually admitted. This was due, among other things, to long negotiations with the Federal Government and the security checks as part of the selection process by the United Nations High Commissioner for Refugees (UNHCR) (Tagesspiegel 2019).

On 24 September 2019, the Berliner Senate decided to develop a humanitarian admission programme for vulnerable persons (Senatskanzlei Berlin 2019).

Pilot programme ‘Neustart im Team (NesT)’

The pilot programme ‘Neustart im Team’ (NesT) was presented on 6 May 2019 and is an additional admission programme for 500 vulnerable persons who are in countries of first refuge. The number is included in the pledged admission quota in the context of the

EU Resettlement Programme 2018/2019 of 10 200⁹⁷ persons (Deutscher Bundestag 2019t). The programme is the responsibility of the Federal Ministry of the Interior, Building and Community, the Integration Commissioner and the Federal Office for Migration and Refugees. The programme was co-developed by the welfare organisations Caritas, Diakonie, Der Paritätische, German Red Cross (GRC) and Arbeiterwohlfahrt (AWO).

Compared to the purely state-run resettlement programmes that have existed up to now, NesT is new in that state and civil society work “hand in hand”. Here, the admission of people is tied to the support of a mentor group on site. In this way, groups of individuals and organisations (at least five people) can admit refugees. The mentors undertake to “facilitate the arrival” of the people and to support them substantially, e.g. in dealing with the authorities, and financially by paying their accommodation costs⁹⁸ (Deutscher Bundestag 2019u: 1f.; BMI/IntB/BAMF 2019: 14f.). The Federal Office for Migration and Refugees decides on the admission and the matching of refugees and mentor groups. The persons admitted are initially granted a residence permit for three years in accordance with Section 23 subs. 4 of the Residence Act, which can subsequently be extended. They receive benefits according to the Social Security Code II (Hartz IV) and are entitled to participate in an integration course (NesT 2020).

The Civil-society Contact Point (German: Zivilgesellschaftliche Kontaktstelle, ZKS) was created for the project, which provides information about the project, offers training and counselling for interested parties, and supports the mentors. During the pilot phase, the

⁹⁷ The admission figures are made up as follows: up to 9 200 places at the federal level, up to 500 places for a humanitarian admission programme at the Land level (Schleswig-Holstein) and up to 500 additional places within the framework of NesT (BAMF 2019f).

⁹⁸ Either by paying the basic rent or by using residential property.

⁹⁶ Date: 28 November 2019.

Civil-society Contact Point consists of representatives of the German Caritas Association, the German Red Cross and the Evangelical Church of Westphalia. The Bertelsmann Foundation, Stiftung Mercator and the Evangelical Church of Westphalia currently fund the Civil-society Contact Point (BAMF 2019g).

During the pilot phase, vulnerable persons in Egypt, Jordan, Kenya, Lebanon and Niger are pre-selected by the UNHCR (BMI 2020d). This means that only so-called resettlement refugees can be admitted, who are selected according to internationally defined protection criteria. The programme builds on experiences with private or community sponsorship programmes in countries such as Canada or the United Kingdom (BAMF 2019h).

The first entries took place at the beginning of November 2019 (BAMF 2019g). So far in 2019, 17 people from the country of first refuge, Jordan, and five more from Ethiopia have been admitted to Germany as part of NesT. The pilot programme is scientifically supported and evaluated by the Research Centre of the Federal Office for Migration and Refugees (BAMF 2019h).

The creation of a further safe legal route for vulnerable persons and the facilitation of civil society support for refugees was welcomed (Diakonie 2019). At the same time, civil society organisations question why citizens have to contribute financially to accommodation costs (Flüchtlingsrat Niedersachsen 2019).

4.3.3 Developments related to the EU

EU resettlement programme

On 27 September 2017, the EU Commission presented a new European resettlement programme for at least 50 000 vulnerable people who were to be admitted by the Member States by October 2019. 500 million euros were made available by the Commission, whereby the resettlement of vulnerable people from Turkey was to be continued, but the focus was also to be shifted to vulnerable people in North Africa and the Horn of Africa (KOM 2017a). The Member States were requested to state how many resettlement refugees they would admit under the new programme.

Following the formation of a new government, the Federal Ministry of the Interior, Building and Community informed the EU Commission that Germany would take part in the EU Resettlement Programme 2018/2019 with up to 10 200 places. The German resettlement quota is made up of the various resettlement missions

(up to 3 200 places), humanitarian admission from Turkey (up to 6 000) places, the Federal Government's admission pilot programme 'Neustart im Team' (NesT) (up to 500 places) and an admission programme of the Land Schleswig-Holstein (500 places) (Resettlement.de 2020a).

The admission order in the context of the resettlement programme for 2018 and 2019 was issued by the Federal Ministry of the Interior, Building and Community on 11 December 2018 for 2 900 vulnerable persons from the countries of refuge Egypt, Ethiopia, Jordan and Lebanon (BMI 2018c). In 2019 in the context of the EU Resettlement Programme, 7 514 people from the countries of refuge Egypt, Ethiopia, Jordan, Lebanon, Niger and Turkey were admitted to Germany under the responsibility of the Federal Government.

At the end of 2019, Germany pledged a further 5 500 resettlement places for 2020, thus remaining at a similar level to the 10 200 places pledged for 2018 and 2019 as a whole. Among the 5 500 places, 3 000 places are to be reserved for the humanitarian admission of Syrians within the framework of the EU-Turkey Declaration, 1 900 places for federal programmes, a further 200 for a Schleswig-Holstein Land admission programme as well as 400 places within the framework of NesT (Evangelisch.de 2019).

Admission of refugees rescued from distress at sea

At the meeting of the Interior Ministers of the EU Member States on 23 September 2019 in Malta, in the presence of the Finnish Council Presidency and the EU Commission, Germany, France, Malta and Italy agreed on a temporary emergency mechanism for people rescued from distress at sea⁹⁹ (see Chapter 2.2.1).

Evacuation mechanism of the UNHCR

In November 2017, the UNCHR established an Emergency Transit Mechanism (ETM) for vulnerable refugees from Libya. The evacuation mechanism is coordinated from Niger. In a first procedure in 2018, the Federal Government had granted protection to a total of 288 persons on the basis of Section 23 subs. 4 of the Residence Act. In May 2019, Germany agreed to admit up to 300 more vulnerable people who are located in Libya through the ETM Niger. Once the necessary preparations have been completed, the admissions are to be implemented from the beginning of 2020 onwards (Deutscher Bundestag 2019t: 4)

⁹⁹ The admissions are made in accordance with Art. 17 subs. 2 Regulation (EU) No. 604/2013 (Dublin III).

5 Unaccompanied minors and other vulnerable groups

At a glance

- There were 8 647 custodial placements of unaccompanied minors after unaccompanied entry. Unaccompanied minors who were both provisionally and regularly placed in custody in the reporting year are counted twice in these statistics.
- Not all unaccompanied minors apply for asylum. Compared to the previous year, the numbers again fell sharply and only 2 689 unaccompanied minors applied for asylum in Germany. 78.1% of them were male. The most prevalent nationalities among the unaccompanied minors who applied for asylum were Afghanistan, followed by Guinea and Syria.
- The ‘Second Act on Improving Registration and Data Exchange for Residence and Asylum Purposes’ (German: Zweites Gesetz zur Verbesserung der Registrierung und des Datenaustausches zu Aufenthalts- und asylrechtlichen Zwecken) (‘Second Data Sharing Improvement Act’), which entered into force on 8 August 2019, introduced a number of measures to improve the registration of minors.

5.1 Unaccompanied minors

5.1.1 Background and general context

Unaccompanied minors¹⁰⁰ are third-country nationals or stateless persons under the age of 18 who enter the country unaccompanied by an adult responsible for them and who are in fact not in the custody of another responsible adult. The reasons why unaccompanied minors come to Germany are manifold and range from acts of war, human rights violations, economic hardship to child-specific reasons (e.g. intra-family violence, child prostitution or forced marriage) (Deutscher Bundestag 2017b: 45).

As soon as unaccompanied minors arrive in the federal territory, they are taken into provisional custody by the competent youth welfare office (Section 42a subs. 1 first sentence of the Social Security Code VIII). Alongside short-term accommodation and medical care, the provisional custodial placement also includes the official age assessment procedure¹⁰¹ for the child and youth welfare proceedings (Section 42f of the Social Security Code VIII). Only after this are the young persons assigned to a municipality where the regular custodial placement takes place. Within this framework, the ‘clearing procedure’ (Section 42 subs. 2 first sentence of the Social Security Code VIII) is carried out, in which the individual need for youth welfare measures is determined. Further accommodation is then provided – depending on capacity and individual assistance needs – in regular youth welfare facilities,

¹⁰⁰ Various terms are used to describe the group of minors who enter Germany without parents: unaccompanied minors (UM), unaccompanied minor refugees (umF), unaccompanied foreign minors (UAM) or unaccompanied minor foreigners (UMA). Which of these terms should ultimately be used is the subject of intense debate among experts (among others BumF 2015; Noske 2012). The present report uses the term unaccompanied minors.

¹⁰¹ For the debate and possibilities of age assessment, see Deutscher Bundestag 2018d.

in accommodation specially geared to the needs of unaccompanied minors or in host or foster families.

Furthermore, for all unaccompanied minors, a guardian¹⁰² is appointed by the family court who has personal custody and represents the children and adolescents in all legal matters.

Some of the unaccompanied minors apply for asylum at the Federal Office for Migration and Refugees. This is carried out in writing by the competent youth welfare office or the guardian.¹⁰³ Within the framework of the clearing procedure, together with the unaccompanied minor it is considered whether an application for asylum is actually in the best interest of the child. "However, in cases where facts justify the assumption that the child or young person is in need of international protection within the meaning of Section 1 subs. 1 No. 2 of the Asylum Act, Section 42 subs. 2 fifth sentence of the Social Security Code VIII requires the youth welfare office to file an application for asylum without delay" (Tangermann/Hoffmeyer-Zlotnik 2018: 17). At the Federal Office for Migration and Refugees, some of the asylum decision-makers are trained as so-called special representatives for dealing with unaccompanied minors (German: Sonderbeauftragte für den Umgang mit unbegleiteten Minderjährigen)

¹⁰² Guardians can be individuals, registered associations or the youth welfare office as official guardian (for a detailed overview, see Tangermann/Hoffmeyer-Zlotnik 2018: 25ff.).

¹⁰³ Minors are not considered capable of acting in the asylum procedure, which is why they cannot submit the application themselves.

in order to ensure that the special needs of minors are addressed sensitively in the interview.

If the asylum application is rejected or if no asylum application or other application for a residence permit is made, unaccompanied minors are usually granted a temporary suspension of removal until they reach the age of majority. Removals of unaccompanied minors may only be carried out in exceptional cases (Section 58 subs. 1a of the Residence Act) and therefore hardly ever took place in the past years, while assisted departures as well as removals following unauthorised entry and refusals of entry at the border, on the other hand, were somewhat more frequent (Tangermann/Hoffmeyer-Zlotnik 2018: 68).

5.1.2 National developments

Statistics – custodial placements and asylum applications of unaccompanied minors

As in the previous year, there was a decline in custodial placements as well as in first-time asylum applications from unaccompanied minors. While the number of applications rose in the years from 2013 to 2016 from 2 486 to 35 939, the number fell significantly in the following years (see Table 4 and Figure 9).

- The number of unaccompanied minors provisionally taken into custody by the child and youth welfare services amounted to 4 886 in 2019 and has decreased by almost 23.6% compared to the previous

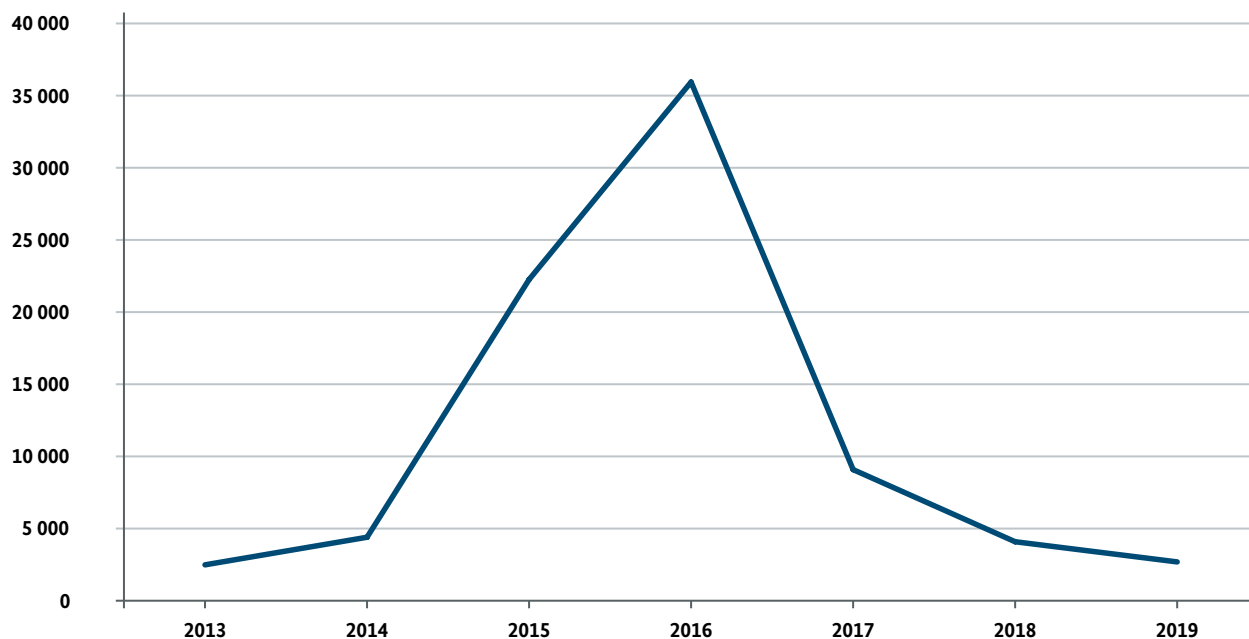
Table 4: Regular and provisional custodial placements (Sections 42, 42a of the Social Security Code VII) of minors due to unaccompanied entry and asylum applications by unaccompanied minors (2015–2019)

Year	Provisional custodial placements	Regular custodial placements	Asylum applications UM	Protection rate for first-time asylum applications UM
2015	–	42 309	22 255	90%
2016	–	44 935	35 939	89%
2017 ¹⁾	11 101	11 391	9 084	78%
2018	6 394	5 817	4 087	59%
2019	4 886	3 761	2 689 ²⁾	47%

Source: BAMF 2020c: 22; StBa 2020h; BMI/BAMF 2019; BAMF 2019d: 26; StBa 2018; Tangermann/Hoffmeyer-Zlotnik 2018.

¹⁾ Against the background of the introduction of a nationwide obligation to admit unaccompanied minors by the municipal youth welfare offices in 2015, the temporary custodial placement serves to accommodate, care for and support the minors immediately after their entry and before possible distribution to the jurisdiction of another youth welfare office. Following a provisional custodial placement, the regular custodial placement is then carried out by the youth welfare office. Since 2017, the official child and youth welfare services statistics have not only included regular custodial placements (according to Section 42 of the Social Security Code VIII), but also temporary custodial placements (Section 42a of the Social Security Code VII).

²⁾ The number of asylum applications is significantly lower than the number of custodial placements, because on the one hand, the latter also include custodial placements of unaccompanied minors from EU Member States and young persons disappear from custodial placements and travel to other states, for example. On the other hand, unaccompanied minors are protected against removal until they reach the age of majority even without applying for asylum if there is no person responsible for them or receiving facility in their country of origin.

Figure 9: Unaccompanied minors, first-time applicants in persons (2013–2019)

Source: BAMF 2020c.

year (2018: 6 394). The number of minors taken into regular custody following the provisional custodial placement is recorded at 3 761 for 2019, a decrease of more than 35.3% compared to the previous year (2018: 5 817) (StBA 2020H; see Table 4).

- Compared to the previous year, the number of asylum applications from unaccompanied minors fell by 34.2% (2019: 2 689; 2018: 4 087; BAMF 2019d: 21; BAMF 2020c: 22).
- Of the unaccompanied minors who applied for asylum, 2 100 (78.1%) were male and 589 (21.9%) were female (BAMF 2020c: 22).
- As in previous years, most unaccompanied minors who applied for asylum came from Afghanistan (18.1%), followed by Guinea (17.9%), Syria (12.4%) and Somalia (9.8%). Together, more than half of the young persons (58.2%) hold one of the four nationalities mentioned (BAMF 2020c: 22).

Statistics – return of unaccompanied minors

In 2019, there were nine removals (incl. Dublin transfers) (2018: 1), 194 refusals of entry at the border (2018: 128) and 28 removals following unauthorised entry (2018: 56) of unaccompanied minors (Deutscher Bundestag 2919ah: 27; Deutscher Bundestag 2020f: 17)¹⁰⁴. 51 unaccompanied minors departed with the return assistance of the REAG/GARP programme (2018: 51; 2017: 80; 2016: 170 departures; provided by IOM; Deutscher Bundestag 2020f: 40).

Refugee minors reported missing

According to the Federal Criminal Police Office, 2 223 unaccompanied minors were reported missing in Germany in the course of 2019, of which almost 81% of the cases were cleared (BKA n. d.). However, due to under-reporting, multiple reporting, missing papers “or even identification measures not carried out”, the data on unaccompanied minors who are missing and unaccounted for is “only reliable to a very limited extent” (Deutscher Bundestag 2020g: 30f.). Furthermore, the figures refer to re-ports of missing persons and not to persons who are actually missing (Deutscher Bundestag 2020g: 1).

The ‘Second Data Sharing Improvement Act’, which came into force on 8 August 2019 (see also Chapters 2.2, 4.1.2.2, 10) also introduced a number of measures to improve the registration of minors and to be able to clearly identify them in a missing persons case, for example. On the one hand, it made it possible for unaccompanied minors to be registered immediately after their entry by admission facilities or branch offices of the Federal Office for Migration and Refugees in accordance with Section 49 subs. 8 and 9 of the Residence Act (Deutscher Bundestag 2020h: 6). On the other hand, in the context of the provisional custodial placement, if there are doubts about the identity of the unaccompanied foreign minor, the competent youth welfare offices are legally obliged to ensure that the young person immediately undergoes identification procedures carried out by one of the authorities authorised

¹⁰⁴ For the terms see Infobox in Chapter 10.

to register them (Deutscher Bundestag 2020h: 6). The amendment to Section 71 subs. 4 of the Residence Act of 21 August 2019 further empowered the Federal Police to fingerprint and take photographs of children aged 14 years and above in all areas of their statutory functions (BPOL 2020a).¹⁰⁵ Welfare organisations and associations such as the Association for Unaccompanied Refugee Minors (Bundesfachverband unbegleitete minderjährige Flüchtlinge, BumF) criticised these provisions: They feared that the provision would “lead to the primary responsibility of the regulatory authorities for the identification and placement of unaccompanied minors”, which would run counter to child protection (BUMF 2018a: 3). The Federal Government, on the other hand, contested that the primacy of the child and youth welfare services remains unaffected by the provisions (Deutscher Bundestag 2020g: 30).

National cooperation strategy for the protection and support of children who are victims of human trafficking and exploitation

In 2019, the implementation of the federal cooperation concept “Protection and assistance in cases of trafficking in and exploitation of children” (German: Schutz und Hilfen bei Handel mit und Ausbeutung von Kindern) commenced, which was developed in cooperation with the child protection organisation ECPAT Deutschland e. V., the German NGO network against trafficking in human beings (German: Bundesweiter Koordinierungskreis gegen Menschenhandel, KOK e. V.) and the Federal Criminal Police Office together with practitioners. It is intended to provide action orientation for networked and coordinated cooperation between, among others, the police, youth welfare office and specialised counselling centres, and aims to provide better protection for children against human trafficking and exploitation (Deutscher Bundestag 2020g: 30).

5.2 Other vulnerable groups

5.2.1 Background and general context

In addition to unaccompanied minors and accompanied minors, vulnerable persons particularly include:

- people with a disability,
- elderly people,
- pregnant women,
- single parents with minor children,

- victims of human trafficking,
- people with severe physical illnesses,
- persons with mental disorders and
- people who have suffered torture, 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 proportion of vulnerable refugees among the total number of refugees, it is estimated that up to 15% can be assigned to this group (Deutscher Bundestag 2017c: 2).

The Länder are responsible for the accommodation and care of vulnerable refugees. They have to ensure that asylum seekers are “accommodated in suitable premises that provide adequate protection against violent attacks” (Deutscher Bundestag 2017c: 11).

The Federal Office for Migration and Refugees trains so-called special representatives for the asylum procedure (German: Sonderbeauftragte für das Asylverfahren) for four particularly vulnerable groups of persons: for unaccompanied minors, people persecuted for gender-specific reasons, victims of human trafficking as well as traumatised asylum seekers and victims of torture. These are decision-makers who are trained in specific legal, cultural and psychological issues so as to be able to carry out the procedures sensitively and assess the asylum application better. The Federal Office for Migration and Refugees has 230 special representatives for victims of trafficking in human beings, 420 special representatives for unaccompanied minors, 259 special representatives for gender-specific persecution and 286 special representatives for victims of trauma and torture (as of 19 February 2020).

Health care for vulnerable asylum applicants is regulated by the Act on Benefits for Asylum Seekers. In addition to basic medical care, vulnerable persons are provided with the medical or other assistance they require (Section 6 subs. 2 of the Act on Benefits for Asylum Seekers). Other benefits can be granted “if they are essential in individual cases to secure subsistence or health” (Section 6 subs. 1 of the Act on Benefits for Asylum Seekers).

5.2.2 National developments

Protection measures for vulnerable persons in refugee accommodation

The ‘Second Act to Improve the Enforcement of the Obligation to Leave the Country’, which has been in force

¹⁰⁵ The amendment to also take fingerprints of children from the age of six will come into force on 1 April 2021.

since 21 August 2019 (see also Chapter 10), contains provisions on the protection of vulnerable persons in refugee accommodation. It obliges the Länder to take appropriate measures to ensure the protection of women and vulnerable persons when accommodating asylum seekers (Section 44 subs. 2a of the Asylum Act). In accordance with Section 53 subs. 3 of the Asylum Act, this obligation also applies to shared accommodation. According to the explanatory reasoning, vulnerable persons are “in particular minors, persons with disabilities, elderly persons, pregnant women, lesbian, gay, bisexual, transgender or intersexual persons, single parents with minor children, victims of human trafficking, persons with serious physical illnesses, persons with mental disorders and persons who have suffered torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of gender-based violence, female genital mutilation, forced marriage or victims of violence based on sexual, gender-related, racial or religious motives” (Deutscher Bundestag 2019v: 15).

In addition, since 2019 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (German: Bundesministerium für Familie, Senioren, Frauen und Jugend, BMFSFJ) has financed the development and testing of the monitoring of protection concepts for refugees in refugee accommodation by the German Centre for Integration and Migration Research (German: Deutsche Zentrum für Integrations- und Migrationsforschung, DeZIM). Furthermore, within the framework of a project of the welfare associations funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, a “decentralised counselling and support structure for protection against violence in refugee accommodation (German: Dezentrale Beratungs- und Unterstützungsstruktur für Gewaltschutz in Flüchtlingsunterkünften, DeBUG) is to be developed and established. The project deploys multipliers throughout Germany to protect refugees and migrants in refugee accommodations. They offer information and counselling as well as coaching and process support for staff in refugee accommodations and support the implementation of violence protection concepts and organise training measures if required (BMFSFJ 2020a).

6 Integration and anti-discrimination measures

At a glance

- In 2019, 176 445 people started an integration course. The countries of origin most represented among them were Syria, Romania and Turkey. A total of 648 million euros from the federal budget was spent on this.
- Within the framework of the migration package, several legislative amendments were passed in the area of integration: The 'Aliens Employment Promotion Act', the 'Amendment of the Act on Benefits for Asylum Seekers', the 'Act on the Suspension of Removal for Vocational Training and Employment' and the 'Act to Remove the Time-Limit of the Integration Act'.
- In response to the increasing danger posed by right-wing extremism, on 30 October 2019 the Federal Government passed a package of measures to combat right-wing extremism and hate crime. The aim of the package of measures is to defend liberal democracy against hatred, right-wing extremism and anti-Semitism.

6.1 Integration

6.1.1 Background and general context

Integration is a cross-sectional task that encompasses numerous political, social and individual areas and thus also affects diverse state and non-state actors at the federal, Land and municipal levels, as well as migrants and the host society itself (for an overview, see the infographic 'Integration and anti-discrimination'). At the federal government level, the Federal Ministry of the Interior, Building and Community is responsible for fundamental issues and legislative procedures in integration policy, and other departments, in particular the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Education and Research, the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (German: Bundesministerium für Familie, Senioren, Frauen und Jugend, BMFSFJ) and the Federal Ministry for Economic Affairs and Energy are responsible for sub-areas of integration policy. The Federal Office for Migration and Refugees is operationally responsible for the Federal Government's integration measures. The Immigration Act that came into force on 1 January 2005 enshrined integration services in law at the federal level for the first time (Sections 43-45a of the Residence Act). In addition, since 2018, the Federal Government has been developing a new National Action Plan for Integration (German: Nationaler Aktionsplan Integration) to bundle, supplement, further develop and control the existing integration offers (Integrationsbeauftragte 2018a).

Overall language programme (German: Gesamtprogramm Sprache)

The 'Overall language programme' systematically combines the Federal Government's language learning offers for immigrant adults. The integration course (Sections 43-44a of the Residence Act and Integration Course Ordinance (IntV)¹⁰⁶) under the responsibility

¹⁰⁶ Ordinance on the implementation of integration courses for foreigners and ethnic German repatriates (German: Verordnung über die Durchführung von Integrationskursen für Ausländer und Spätaussiedler) (Integration Course Ordinance – IntV).

Central integration and anti-discrimination measures of the Federal Government

Integration courses

Coordination: BAMF; implementation: private and public providers

General integration course

Language and orientation course
Teaching the language, legal system, culture and history of Germany

Target group specific courses

Among other things, courses on literacy, initial orientation, for those learning an additional alphabet and women (e.g. programme "Migrant Women simply strong in Daily Life")



Labour market integration

Vocational language courses

Coordination: BAMF; implementation: private and public providers

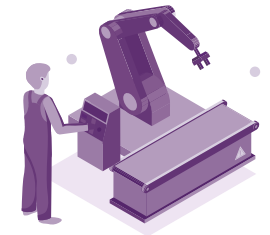
Teaching of job-related language skills

Recognition of foreign vocational qualifications

Legal entitlement to assessment of equivalence

Support programme IQ

Among other things, qualification measures and inter-cultural competence development of the central labour market actors



Enabling full and equal participation

Foundation: Immigration Act, National Action Plan for Integration



Counselling and information services

Central hotline "Working and Living in Germany"

www.anerkennung-in-deutschland.de

BAMF citizen service

BQ-Portal

Information on foreign vocational qualifications and vocational training systems

Support programme IQ

Among other things, on the recognition of foreign vocational qualifications

Migration Counselling for Adult Immigrants

Youth Migration Services

Projects for social and community integration

Supporting arrivals, enabling encounters or strengthening civil society

Wide range of activities (e.g. sports, cultural exchange, promotion of volunteering)



Anti-discrimination

Art. 3 para. 3 of the Basic Law

No one may be disfavoured or favoured because of sex, parentage, race, language, homeland and origin, faith, religious or political opinions. No person shall be disfavoured because of disability.

General Equal Treatment Act

Extends the protection of Art. 3 of the Basic Law to private law.



Counselling and provision of information by the **Federal Anti-Discrimination Agency** and other **state-funded and non-state anti-discrimination agencies** in the Länder.

Federal Programme **"Live Democracy! Be active against right-wing extremism, violence and misanthropy"**

National Action Plan against Racism



of the Federal Ministry of the Interior, Building and Community and, building on this, the job-related German language training (German: *berufsbezogene Deutschsprachförderung* (Section 45a of the Residence Act and the German language training ordinance (German: *Deutschsprachförderverordnung*)) under the responsibility of the Federal Ministry of Labour and Social Affairs are central to this. Both course programmes are administered by the Federal Office for Migration and Refugees and conducted by private and public providers approved by the Federal Office for Migration and Refugees. Foreign nationals who received their residence permit after 1 January 2005 are entitled to take part in an integration course under certain conditions. Foreign nationals may also be obliged to take part, for example, if they receive benefits under the Social Security Code II, are in particular need of integration or, in certain cases, if they receive benefits under the Act on Benefits for Asylum Seekers, although there are exceptions to the obligation to take part (Section 44a subs. 1 and 2 of the Residence Act). Persons who are not (or no longer) entitled to take part in an integration course may, upon application, be admitted by the Federal Office for Migration and Refugees within the scope of the available course places.

In addition to the general integration course, there are also courses for special target groups¹⁰⁷. All types of courses include both language instruction (language course) and the mediation of Germany's culture, legal system and history (orientation course). In addition, there is the possibility for "asylum applicants who originate from a country which does not have a high recognition rate (good prospects to remain), but which equally does not constitute a safe country of origin" to attend a so-called initial orientation course (German: *Erstorientierungskurs*) (BAMF 2017a).

For women with small children, regular participation in the integration course is often hindered by a lack of childcare options (Brücker et al. 2019: 9; Tissot et al. 2019: 44ff.). Therefore, it is extremely important to expand regular local childcare services and to motivate the families concerned to take advantage of such services.

Since 2016, vocational language courses specifically tailored to people entering the labour market have

also been provided as a regular support instrument¹⁰⁸ of the Federal Government, coordinated by the Federal Office for Migration and Refugees and carried out with the assistance of private and public providers (Section 45a of the Residence Act). Job-related language training is intended to facilitate participation in the labour market for holders of a residence permit who are generally permitted to engage in gainful employment. Under certain conditions, persons whose removal has been suspended and asylum applicants who have a good chance of being permitted to remain lawfully and permanently following the asylum procedure also have access to the vocational language courses.

Integration into the labour market

The area of labour market integration is fundamentally governed by the Social Security Code II and III and mainly falls within the area of responsibility of the Federal Ministry of Labour and Social Affairs and the Federal Employment Agency.

In addition to job-related German language training, there are other Federal Government measures to facilitate integration into the labour market. The support programme 'Integration through Qualification' (German: *Integration durch Qualifizierung, IQ*) was already launched in 2005. The aim of the programme is "that vocational qualifications acquired abroad – irrespective of residence permit – more frequently lead to employment that is commensurate to the training" (IQ Netzwerk 2020a). The support programme includes four main areas of action: counselling on the recognition of foreign vocational qualifications, qualification measures within the framework of the Recognition Act (German: *Anerkennungsgesetz*), intercultural competence development of the central labour market actors and, since 2019, the networking of local actors in regional skilled labour networks with the aim of supporting skilled labour immigration (IQ Netzwerk 2020a). The programme is financed by funds of the Federal Ministry of Labour and Social Affairs and the European Social Fund (ESF). The cooperation partners are the Federal Ministry of Education and Research and the Federal Employment Agency. The Federal Office for Migration and Refugees is entrusted with the administrative implementation.

¹⁰⁷ E.g. illiterate people, young persons, parents, women, people with special language education needs or those learning an additional alphabet. People with good learning conditions have the opportunity to take part in intensive courses. Specialised courses are also partly supported by other government departments, such as the Federal Ministry of Labour and Social Affairs or the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (for a comprehensive overview, see BMAS 2019b).

¹⁰⁸ There have already been programmes of job-related German language training (funded by the European Social Fund (ESF), e.g. the ESF-Federal Office for Migration and Refugees programme (BAMF 2013).

Since 2011, the Act on the Determination of the Equivalence of Professional Qualifications¹⁰⁹ and the EU Recognition of Professional Qualifications Directive (Directive 2013/55/EU)¹¹⁰ have created a general legal entitlement at federal level to review the equivalence of a foreign professional qualification.

Counselling and information services

Parallel to the Act on the Determination of the Equivalence of Professional Qualifications, which is also known as the Recognition Act, the Federal Government has created various counselling and information services since 2012. Alongside the online portal www.anerkennung-in-deutschland.de there is also the central hotline ‘Working and Living in Germany’¹¹¹ which is run by the Federal Office for Migration and Refugees and the Federal Employment Agency. It offers skilled workers, students and trainees interested in immigration advice on topics such as entry, residence, training opportunities, finding a job and professional recognition, as well as on opportunities to learn the German language.

In the context of the IQ network, on behalf of the Federal Ministry for Economic Affairs and Energy, the ‘BQ-Portal’¹¹², a database of foreign vocational qualifications, occupational groups, country profiles and working aids was already set up in 2011. It is aimed at companies, employers but also public institutions, and facilitates the determination of the vocational aptitude of employees (Happ 2018). In 2019, the database contained around 4 000 country and vocational profiles.

Given the large number of other integration measures at federal, Land and municipal level, special mention should be made of the Migration Counselling for Adult Immigrants (German: Migrationsberatung für erwachsene Zuwanderer, MBE). This is an individual counselling service provided by the Federal Government, which was established by the Immigration Act 2005 (Section 75 No. 9 in conjunction with Section 45

first sentence of the Residence Act) and is administered by the Federal Office for Migration and Refugees. In 2019, 560 000 people were reached (BMI 2020e). The online counselling¹¹³ now plays a steadily increasing role. In addition, the Youth Migration Services (German: Jugendmigrationsdiensten, JMD), funded by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, offer special services for young persons and young adults between the ages of 12 and 27 with a migration background as well as for young refugees and persons whose removal has been suspended (JMD 2020).

Social and community integration

Alongside the legally anchored integration offers, the Federal Government promotes projects for the social and community integration of immigrants. In addition to strengthening actors and organisations, the focus is on settling into the community, encounters between immigrants and the host society, as well as the low-threshold communication of values (BAMF 2018c).

6.1.2 National developments

Alongside the Federal Government, the Länder and the municipalities also play a central role in German integration policy. Due to the numerous integration measures decided and implemented at the Land and municipal level, this report is primarily limited to developments at the federal level.

6.1.2.1 Statistics

Integration courses

The decreasing number of asylum applicants is also reflected in the area of integration courses (see Table 5).

- In 2019, the number of new course participants in integration courses decreased by 13.1% compared to the previous year (2019: 176 445; 2018: 202,933).
- Thus, from 2005 until the end of 2019, a total of around 2.3 million people started an integration course.
- 58% of new participants in 2019 were obliged to attend the course.

¹⁰⁹ Act on the Determination of the Equivalence of Professional Qualifications (German: Berufsqualifikationsfeststellungsgesetz, BQFG) of 6 December 2011 (Federal Law Gazette I S. 2515), which was last amended by Article 114 of the Act of 20 November 2019 (Federal Law Gazette I S. 1626).

¹¹⁰ 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) No. 1024/2012 on administrative cooperation through the Internal Market Information System (“the IMI Regulation”).

¹¹¹ The hotline is open Monday to Friday from 9:00 a.m. to 3:00 p.m. on +49 (0)30-1815-1111.

¹¹² Website of the BQ-Portal: <https://www.bq-portal.de/> (15.06.2020).

¹¹³ Website: www.mbeon.de; App: mbeon.

Table 5: New course participants by most common nationality (2018–2019)

Nationality	2019			2018		
	Rank	Absolute	Percentage	Rank	Absolute	Percentage
Syria	1	25 099	14.2	1	38 725	19.1
Romania	2	12 275	7.0	4	11 729	5.8
Turkey	3	10 028	5.7	5	8 841	4.4
Afghanistan	4	9 716	5.5	2	14 633	7.2
Iraq	5	7 629	4.3	3	13 180	6.5
Bulgaria	6	7 613	4.3	6	8 434	4.2
Iran	7	6 959	3.9	8	6 599	3.3
Poland	8	5 886	3.3	7	6 653	3.3
Kosovo	9	5 169	2.9	11	4 840	2.4
Italy	10	4 956	2.8	10	5 031	2.5
Others (incl. ethnic German resettlers)		81 115	46.0		84 268	41.5
In total		176 445	100.0		202 933	100.0

Source: BAMF 2020g: 7.

- Of the new course participants in 2019, 41.2% were men and 58.8% were women. The childcare provided alongside the integration course is an important offer, especially for mothers. In 2019, childcare during course participation was funded for around 6 700 children.
- In the German Test for Immigrants, in 2019 50.6% of the participants attained level B1 of the Common European Framework of Reference for Languages (CEFR) and 31.5% attained level A2 CEFR.
- The new course participants were most often citizens of the following countries: Syria (25 099), Romania (12 275), Turkey (10 028), Afghanistan (9 716) and Iraq (7 629).
- The integration courses were implemented throughout Germany by around 1 600 providers (mainly adult education centres, private language and vocational schools, training centres, in-company training centres, initiative groups, church and independent providers; (BAMF 2020g: 4ff.).
- In 2019, around 648 million euros from the federal budget were spent on the implementation of integration courses (2018: around 874 million euros, 2017: around 859 million euros).

Vocational language courses

Since 2016, the Federal Office for Migration and Refugees has developed the vocational language courses together with the Federal Ministry of Labour and

Social Affairs in accordance with Section 45a of the Residence Act.

- In 2019, there were 9.1% more course entries than in the previous year (2019: 180 989; 2018: 165 876; 2017: 96 762).
- Thus, from 2016 to the end of 2019, around 330 000 people attended at least one vocational language course.
- Around 45% of those starting a course in 2019 were obliged to attend the course.
- Around 48% of those starting a course in the year were female.
- The most common nationalities among the new entrants were Syrian, Iraqi and Afghan (see Table 6).
- The courses were implemented by more than 1 200 providers.
- Around 310 million euros were spent on the implementation of job-related German language training in 2019 (2018: around 243 million euros).

6.1.2.2 Legal changes in the area of integration

On 7 June 2019, the Bundestag passed several amendments in the area of migration and integration in the framework of the so-called migration package (see also Chapter 2.2, 3.1.2.2, 4.1.2.2, 5.1.2, 10).

Table 6: Course entries by most common nationality (2018–2019)

Nationality	2019			2018		
	Rank	Absolute	Percentage	Rank	Absolute	Percentage
Syria	1	70 628	39.0	1	74 293	44.8
Iraq	2	12 981	7.2	2	10 285	6.2
Afghanistan	3	12 547	6.9	4	9 051	5.5
Germany ¹⁾	4	9 812	5.4	5	8 915	5.4
Iran	5	9 363	5.2	3	9 049	5.5
Turkey	6	5 661	3.1	8	3 434	2.1
Eritrea	7	4 691	2.6	6	4 207	2.5
Romania	8	4 168	2.3	9	3 350	2.0
Russian Federation	9	3 489	1.9	10	2 950	1.8
Poland	10	3 448	1.9	7	3 487	2.1
Other		44 201	24.4		36 855	22.2
In total		180 989	100.0		165 876	100.0

Source: BAMF.

¹⁾ People with a migration background can hold German citizenship and attend vocational language courses to improve their employment opportunities. Differences due to errors possible.

Aliens Employment Promotion Act

The Aliens Employment Promotion Act¹¹⁴ entered into force on 1 August 2019 and is intended to support persons with permission to remain pending the asylum decision and temporary suspension of removal in acquiring the German language and training so as to reduce or avoid their dependence on social benefits. On the one hand, the law is intended to restructure access to language training. Subject to available course places, persons with permission to remain pending the asylum decision who are close to the labour market, e.g. because they are registered as employed or unemployed, can now take part in an integration or vocational language course after only three months' stay in Germany even if their 'prospects of staying are unclear',

if they came to Germany before 1 August 2019. Furthermore, under certain conditions, persons with a temporary suspension of removal can attend a vocational language course after six months.

Furthermore, the Aliens Employment Promotion Act enabled easier access to training support. Until now, the promotion of vocational training and vocational preparation under the Social Security Code III and the Social Security Code II was significantly restricted for foreign nationals. Among other things, the provisions meant that, even if refugees had access to vocational training, they were unable to claim various training support benefits (BMAS 2019b). One important amendment concerns, on the one hand, the fundamental opening of vocational preparation measures for foreign young people, provided that they have general access to the labour market and have been resident in Germany

¹¹⁴ Act to Promote the Training and Employment of Foreigners.

Information box: Selected legislative changes in the context of the migration package

- Aliens Employment Promotion Act (entry into force: 01 August 2019)
- 'Third Act on the Amendment of the Act on Benefits for Asylum Seekers' (entry into force: 01 September 2019)
- 'Act on the Suspension of Removal for Vocational Training and Employment' (entry into force: 01 January 2020)
- 'Act to remove the time-limit of the integration Act' (entry into force: 12 July 2019)
- Skilled Labour Immigration Act (entry into force: 1 March 2020, for amendments see Chapter 3)

for at least 15 months with a residence permit, permission to remain pending the asylum decision or temporary suspension of removal and their education and language skills give reason to expect a successful transition to vocational training (Section 52 subs. 2 of the Social Security Code III). For those with permission to remain pending the asylum decision or temporary suspension of removal, eligibility for support is subject to prior deadlines. Previously, support for foreign persons was linked to their nationality, residence status and previous period of residence (Section 59 of the Residence Act old version). Accordingly, access to the vocational training grant has also been opened up to a large extent, with the exception of those with permission to remain pending the asylum decision or temporary suspension of removal, whereby the latter are granted more restricted access (Section 60 subs. 3 of the Social Security Code III).

The legislative changes have also improved the early support for integration into the labour market. The previous temporary provision that persons with permission to remain pending the asylum decision with good prospects of staying can receive certain “benefits to support placement in active labour promotion” even before they have access to the labour market has thus been extended indefinitely (Section 39a of the Social Security Code III; BMAS 2019b).

Furthermore, the Aliens Employment Promotion Act provided for the payment of unemployment benefits during an integration course or a job-related language course (Section 139 subs. 1 second sentence). This was previously not possible, which sometimes had the effect that the persons concerned did not attend language courses. Unemployment benefits can now continue to be paid if “the improvement of language skills is necessary for permanent integration into the labour market” and this has been determined by the Employment Agency. Course participation is then compulsory (BMAS 2019b).

Recently, the integration course was opened up to other groups of persons with permission to remain pending the asylum decision. Previously, this was only possible if they had “a good chance of being permitted to remain lawfully and permanently” (Section 44 subs. 4 No. 1 letter a of the Residence Act). Now, persons with permission to remain pending the asylum decision can also take part in an integration course if they entered Germany before 1 August 2019, have stayed in Germany for at least three months, do not come from a ‘safe country of origin’ in accordance with Section 29a of the Asylum Act and are, for example, registered as jobseekers with the Federal Employment Agency

(Section 44 subs. 4 No. 1 letter b of the Residence Act). The aim of the legislator is to make it easier to enter the labour market by acquiring German language skills earlier (BMAS 2019c: 31).

The promotion of vocational training and preparation for vocational training and also the broader access to German language courses were welcomed (among other things DGB 2019; ZBS-AuF II 2019; IAB 2019). In their comments on the draft law, several actors also called for an early opening of the programmes to other persons with temporary suspension of removal or permission to remain pending the asylum decision (e.g. Der Paritätische 2019b: 2ff.; DGB 2019: 3; IAB 2019) After entry into force of the Aliens Employment Promotion Act, according to statistics of the Federal Office for Migration and Refugees, the number of persons with temporary suspension of removal or permission to remain pending the asylum decision in the vocational language courses rose from 2.6% to 6.1%.

Act on Benefits for Asylum Seekers

The amendment of the Act on Benefits for Asylum Seekers in the context of the migration package also closed the support gap for persons with permission to remain pending the asylum decision and persons whose removal has been suspended in training or studies. Until now, the subsistence of these groups of people was “not consistently secured”. With the entry into force of the amendment to the Act on Benefits for Asylum Seekers on 1 September 2019, subsistence is assured in these cases. Thus, in future, the attempt to take up in-company training or studies should no longer fail due to a lack of subsistence (BMAS 2019b).

Act on the Suspension of Removal for Vocational Training and Employment

A further important part of the migration package is the ‘Act on the Suspension of Removal for Vocational Training and Employment’, which entered into force on 1 January 2020. The law introduces the regulation that persons whose removal has been suspended “receive a reliable residence status under certain conditions and for a certain period of time through a long-term temporary suspension of removal”, “if they complete vocational training or pursue employment”. Following a suspension of removal for vocational training or employment purposes, under certain conditions it is possible for a residence permit to be issued” (BMI 2019h). Experts welcomed the clarity created by the new provisions for persons whose removal has been suspended as well as employers (SVR 2019b: 1). There was some criticism that the new provision could only

be accessed by a few people due to the high requirements (ZBS-AuF II 2019).

Act to Remove the Time-Limit of the Integration Act

The ‘Act to Remove the Time-Limit of the Integration Act’ extended the residence rule for beneficiaries of protection in accordance with Section 12a of the Residence Act for an indefinite period. In 2016, the so-called residence requirement for beneficiaries of protection was introduced with the aim of improving the management of the distribution of refugees. According to Section 12a subs. 1 first sentence of the Residence Act, beneficiaries of protection may not freely choose their place of residence during the first three years after their recognition. Exceptions apply where a person, their spouse or registered partner or minor child is employed subject to social insurance contributions (at least 15 hours per week) and earns a certain monthly income (2019: 769 euros¹¹⁵) or is in a study or

¹¹⁵ Average needs in accordance with Sections 20, 22 of the Social Security Code II for a single person. Calculated from the standard needs for 2019 of 424 euros and the average cost of accommodation in the month of December 2019 of 344 euros (BMAS 2020a).

training relationship or has taken up vocational training (Section 12a subs. 1 second sentence of the Residence Act). Depending on the Land, the provision applies to a specific municipality or to the entire Land. This provision was initially limited until August 2019; the amendment to the law makes the residence requirement permanent. The reason for this, according to the Federal Government, is that “without an extension of this provision [...] an important integration policy instrument for the persons concerned and the ability to plan the integration services of the Länder and municipalities required for this purpose [would] cease to exist.” In the long term, it should also “make it possible to counteract segregation tendencies that hinder integration by restricting settlement” (Deutscher Bundestag 2019g: 1).

Since the residence requirement was disputed when it was first introduced, its indefinite extension was also seen as controversial (Deutscher Bundestag 2016a: 15; Pro Asyl 2016: 2f.; Deutscher Bundestag 2016b: 1352f.; Flüchtlingsrat Schleswig-Holstein 2016; El-Kayed/Hamann 2016). On the one hand, central municipal organisations continued to welcome the provision because it had proven itself as an “integration policy

Table 7: Federal Government support for the Länder and municipalities in the area of refugee and integration costs (2016–2019)

Year	2016	2017	2018	2019
Participation in expenses for asylum seekers from registration until a decision is issued by the Federal Office for Migration and Refugees and lump-sum payment in case of a negative decision	5 502 million euros	1 163 million euros	1 607 million euros	756 million euros
Relief allowance for unaccompanied minor refugees	350 million euros	350 million euros	350 million euros	350 million euros
Improvement of childcare	339 million euros	774 million euros	870 million euros	–
Special fund for childcare expansion 2017 to 2020 ¹⁾	–	226 million euros	300 million euros	300 million euros
Additional compensation funds for social residential support due to the termination of the financial assistance (deglomeration funds) ²⁾	500 million euros	1 000 million euros	1 000 million euros	500 million euros
Integration allowance	2 000 million euros	2 000 million euros	2 000 million euros	2 435 million euros
Costs of accommodation and heating in the context of forced migration ³⁾	400 million euros	900 million euros	1 313 million euros	1 890 million euros
Free transfer of property for the accommodation of asylum seekers and refugees and reimbursement of the appropriate and necessary set-up costs incurred by the providers ⁴⁾	155 million euros	158 million euros	89 million euros	83 million euros
Carriage or transport costs	95 million euros	10 million euros	2 million euros	–
Total	9 341 million euros	6 581 million euros	7 531 million euros	6 314 million euros

Source: Deutscher Bundestag 2017g: 3f., 2018i: 2f., 2019at: 2f., 2020p: 2f.

¹⁾ The additional childcare places created as a result are not restricted to refugee children.

²⁾ “The increased compensation funds do not exclusively benefit refugees” (Deutscher Bundestag 2020p: 3).

³⁾ After entry into force of the Federal Participation Determination Regulations (German: Bundesbeteiligungs-Festlegungsverordnungen) of 2018 and 2019, in 2018 and 2019 the Länder are fully relieved of the additional expenditure for accommodation costs in the context of forced migration for the years 2017 and 2018 based on the actual expenditure determined (Deutscher Bundestag 2018: 3, 2019: 3).

⁴⁾ In 2016 and 2017, this item also includes measures of the German Federal Agency for Technical Relief (German: Technisches Hilfswerk, THW).

instrument to counteract segregation tendencies” and uncontrolled settlement in overcrowded urban areas (Deutscher Bundestag 2019ap: 22). On the other hand, civil society organisations and welfare associations continue to criticise the allocation of places of residence. For example, based on practical experience, the Caritas Association questioned the success of the control instrument in terms of its integrative effects and called for a detailed evaluation of the residence requirement before it was made permanent (Deutscher Bundestag 2019ap: 24f.). The law on the delimitation of the provision now stipulates that it is to be evaluated with regard to its effectiveness within three years of entry into force (Bundesrat 2019: 5). Initial research results suggest that the residence requirement can, among other things, reduce a person’s likelihood of employment and also the quality of their accommodation, but at the same time has no significant effect on language acquisition. Overall, the IAB researchers draw a negative balance for the residence requirement and conclude that “the aim of the law to improve the integration opportunities of refugees by introducing residence requirements” was not achieved (Brücker/Hauptmann/Jaschke 2020: 11).

Financial participation of the Federal Government in the refugee and integration policy activities of the Länder and municipalities

Since 2015, the Federal Government has contributed to the costs incurred by the Länder and municipalities in connection with the increased level of forced migration. In 2016, the ‘Law on the Participation of the Federal Government in the Costs of Integration and on the Further Relief of the Municipalities’ (German: Gesetz zur Beteiligung des Bundes an den Kosten der Integration und zur weiteren Entlastung der Kommunen)¹¹⁶ was passed for this purpose. In 2019, the Federal Government supported the Länder with a total of 6.3 billion euros, of which around 2.4 billion euros were provided as part of the integration block grant (German: Integrationspauschale). In addition to assuming the additional costs caused by refugees, the integration block grant has been distributed to the Länder since 2016 through an increase in the Länder share of turnover tax. The Länder then partially pass this on to the municipalities for the financing of activities on the ground (Bundesregierung 2016; Deutscher Bundestag 2020: 6). As can be seen from Table 7, in the years 2016 to 2018, the integration block grant amounted to 2 billion euros per year.

In addition, in 2019, the Federal Government bore further expenses of around 16.8 billion euros without the participation of the Länder, of which around 8.4 billion euros were spent on combating the causes of forced migration (2018: a further 15.5 billion euros, of which around 7.9 billion euros were spent on combating the causes of forced migration; Deutscher Bundestag 2019at: 1; Deutscher Bundestag 2020p: 1). In total, the Federal Government thus spent around 23.1 billion euros in this area in 2019, although it should be noted that expenditure cannot always be clearly differentiated according to the group of people and that numerous measures also benefit the general population, e.g. the improvement of childcare (Deutscher Bundestag 2020p: 3).

On 15 November 2019, the Bundestag decided on the continuation of the Federal Government’s participation in the integration costs of the Länder and municipalities. The law¹¹⁷ entered into force on 13 December 2019. Thus, the Federal Government will support the Länder and municipalities to the tune of 1.8 billion euros in each of the years 2020 and 2021. In addition, the Länder will continue to be provided with an integration block grant (2020: 700 million euros; 2021: 500 million euros) (Bundesregierung 2019b). Maintaining funding was also part of the demands of the 14th Integration Ministers’ Standing Conference in Berlin on 11 and 12 April 2019 (Senatsverwaltung für Integration, Arbeit und Soziales Berlin 2019a).

Bavarian Integration Act (German: Bayerisches Integrationsgesetz)

The Bavarian Constitutional Court announced on 3 December 2019 that the Bavarian Integration Act, which came into force on 1 January 2017, is unconstitutional in parts. The Bavarian Integration Act stipulates, among other things, “the absolute respect for the guiding culture” and the obligation of immigrants to make “integration efforts” as goals. At the same time, the aim of the law is to promote integration (Art. 1 of the Bavarian Integration Act). With regard to the expected integration efforts, the law contains several possibilities for sanctions. In particular, the concept of “guiding culture” (German: Leitkultur) was strongly criticised by associations, trade unions, churches and also the opposition in the Bavarian Land parliament (EMN/BAMF 2018: 74). The opposition parties SPD and Greens brought an action against the law in the Bavarian Land parliament. The decision of the Bavarian Constitutional Court

¹¹⁶ Law on the Participation of the Federal Government in the Costs of Integration and on the Further Relief of the Länder and Municipalities of 1-12-2016, Federal Law Gazette I 2016, 2755.

¹¹⁷ Law on the Participation of the Federal Government in the Integration Costs of the Länder and Municipalities in the Years 2020 and 2021 of 9-12-2019, Federal Law Gazette I 2019, 2051.

concerns, among other things, the “fundamental obligation to contribute to the communication of the ‘guiding culture’ in broadcasting services” which follows from Art. 11 second sentence of the Bavarian Integration Act, which violates the freedom of broadcasting (Bavarian Constitutional Court 2019: 9). Furthermore, the obligation to participate in a basic course “on the values of the free democratic basic order” in case of an openly expressed rejection of the constitutional system of laws and values (Art. 13 of the Bavarian Integration Act) is unconstitutional and violates the fundamental right of freedom of expression (Bavarian Constitutional Court 2019: 10). In response, Bavaria’s Minister of the Interior and Integration, Joachim Herrmann, announced that the law would be reviewed (STMI 2019a).

6.1.2.3 Further developments in the integration area

14th Integration Ministers’ Standing Conference 2019

The 14th Integration Ministers’ Standing Conference met in Berlin from 11 to 12 April 2019. At the conference, which is held annually, the ministers and senators responsible for integration in the 16 Länder discuss and decide on fundamental and inter-Länder matters relating to the integration of people with a migration background. The motto of the 14th conference was: ‘Arrive. Take part. Stay’. (German: Ankommen. Teilhaben. Bleiben.) The Länder declared, among other things, that “people with a migration background are part of German society” and that they thus “oppose positions that distinguish between ‘us’ and ‘them’” (Senatsverwaltung für Integration, Arbeit und Soziales Berlin 2019b). In addition, the Federal Government’s refugee funding, the restructuring of the language training and the improvement of the labour market integration of EU citizens were discussed.

National Action Plan Integration (NAP-I)

On the occasion of the 10th Integration Summit (German: Integrationsgipfel)¹¹⁸ of the Federal Chancellor, in June 2018 the official launch of the further development of the National Action Plan for Integration (NAP-I) took place. The NAP-I, under the motto ‘One country. Many opportunities’ (German: Ein Land. Viele Chancen) is intended to bundle, supplement, further develop and steer the existing integration offers. It pursues the goal of “strengthening integration in the country as a whole according to the principle ‘encourage and promote’”

(Integrationsbeauftragte 2018). In so doing, the National Action Plan targets all groups of immigrants (asylum seekers, EU immigrants, skilled workers and people who have already lived in Germany for a long time) and is based on “five phases of immigration and coexistence” (Integrationsbeauftragte 2018):

- Phase I: Before immigration: managing expectations – providing orientation
- Phase II: Initial integration: facilitating arrival – communicating values
- Phase III: Inclusion: enabling participation – encouraging and promoting achievement
- Phase IV: Growing together: shaping diversity – securing unity
- Phase V: Cohesion: strengthening cohesion – shaping the future

In 2019, the elaboration of the content of the individual subject areas began.

Expert Commission on Integration Capacity (German: Fachkommission Integrationsfähigkeit)

After the Federal Cabinet decided on 30 January 2019 to appoint an expert commission on the framework conditions of ‘integration capacity’, the first meeting of the ‘Expert Commission on Integration Capacity’ was held at the Federal Chancellery on 20 February 2019. The members of the expert commission were jointly proposed by the Federal Integration Commissioner, the Federal Ministry of Labour and Social Affairs and the Federal Ministry of the Interior, Building and Community. Derya Çağlar, Member of the Berlin House of Representatives, and Ashok Sridharan, Lord Mayor of Bonn, are Chairpersons. Other members of the expert commission come from science and practice. The objective of the expert commission is “to describe the economic, labour market, social and demographic framework conditions for integration and to make proposals for standards on how these can be improved” (Integrationsbeauftragte 2019a). Furthermore, alongside new immigrants and people with a migration background who have already lived in Germany for longer, “the reception capacity and willingness of society as a whole” is also observed (Integrationsbeauftragte 2019a). To this end, the expert commission will seek dialogue with and expertise from migrant organisations and other actors in the area of integration (including central municipal organisations and voluntary welfare organisations) (BMI 2019r). The expert commission will present the elaborated recommendations in the form of a report on 20 January 2021, which will then be submitted by the Federal Government to the German Bundestag.

¹¹⁸ The Integration Summit of the Federal Chancellor has been held regularly at the Federal Chancellery since 2006. Representatives of the Federal Government, the Länder and the municipalities as well as civil society and migrant organisations take part.

12th Report of the Federal Government Commissioner for Migration, Refugees and Integration

On 3 December 2019, the Federal Commissioner for Integration presented the 12th State of Integration Report entitled 'Germany can integrate: Promoting potential, supporting integration, strengthening cohesion' (German: Deutschland kann Integration: Potenziale fördern, Integration fördern, Zusammenhalt stärken). The report describes the most important developments and findings in the subject area of migration and integration in all areas of society and covers the period from August 2016 to April 2019. The mandate for the report is based on the Residence Act. According to the integration commissioner, Minister of State Annette Widmann-Mauz, the Skilled Labour Immigration Act (see Chapter 3.1.2) introduced a "paradigm shift" and a commitment to Germany as a "country of immigration". The report also shows that diversity in Germany is "reality" (Integrationsbeauftragte 2019b). The report has the following main focal points:

- Call for "compulsory language tests for all children throughout Germany and better language support already before school",
- Improved labour market integration,
- Greater support for women with an immigration background in labour market integration in cooperation with the Federal Employment Agency,
- Combating all forms of extremism through "prevention, a clear position and zero tolerance",
- "Diversity is reality and normality": a quarter of the people living in Germany have a migration background. Moreover, the concept of a 'migration background' "no longer adequately reflects reality", since, on the one hand, people whose fore-generations immigrated to Germany feel "just as 'German'" and, on the other hand, "the group of people with a migration background is becoming increasingly heterogeneous" (Integrationsbeauftragte 2019b).

Report on the Recognition Act (German: Anerkennungsgesetz) of 2019

On 11 December 2019, the Federal Cabinet approved the report on the Recognition Act 2019. According to the Federal Education Minister Anja Karliczek, the report shows that the recognition procedure for foreign qualifications improves career opportunities. In case of full equivalence, the salary increases on average by 860 euros per month. The recognition thus also helps to attract skilled workers. Over 280 000 applications for recognition and certificate evaluation have been submitted since the Recognition Act entered into force (BMBF 2019b).

New model project 'Municipalities open to the world – from dialogue to cohesion' (German: Weltoffene Kommunen – vom Dialog zum Zusammenhalt)

The aim of the model project 'Municipalities open to the world' is to strengthen towns and municipalities "in their commitment to openness, tolerance and positive social coexistence" and to increase the appeal for skilled workers from abroad. The project is part of the National Action Plan for Integration, which is coordinated by the integration commissioner. First model municipality is Potsdam. In the years 2020-2021, a total of 40 municipalities throughout Germany can participate in the project. The accumulated experiences and discussion results of the participating municipalities are then to be elaborated into concrete recommendations for action and made available to all municipalities on a digital knowledge platform (Integrationsbeauftragte 2019c).

New project 'BePart - participation starts locally' (German: BePart – Teilhabe beginnt vor Ort)

Since people with a family history of immigration often have only limited opportunities for participation, 'BePart' is intended to strengthen the social and political participation of people with an immigration history. The project is to be funded by the integration commissioner together with the Federal Agency for Civic Education (German: Bundeszentrale für politische Bildung) until June 2021 at a total of around 1.2 million euros. Within the framework of the project, activities to increase participation are to be designed together with migrant organisations, educational providers and local bodies, for example in kindergarten committees, integration committees and municipal bodies. The project will initially be implemented in ten model municipalities¹¹⁹. In addition, the extent and nature of participation in the framework of the project is scientifically accompanied by the research department at the Expert Council of German Foundations on Integration and Migration (German: Sachverständigenrat deutscher Stiftungen für Integration und Migration, SVR) (Integrationsbeauftragte 2019d).

¹¹⁹ When selecting the model municipalities, care was taken to represent a cross-section of Germany: Berlin, Augsburg (Bavaria), Essen (North Rhine-Westphalia), Burgenlandkreis (Saxony-Anhalt), Leipzig (Saxony), Erfurt (Thuringia), district of Osnabrück (Lower Saxony), Frankfurt am Main (Hesse), Tübingen (Baden-Wuerttemberg) and Neumünster (Schleswig-Holstein).

6.2 Anti-discrimination

6.2.1 Background and general context

In Germany, anti-discrimination legislation and policy is based on Article 1 and Article 3 of the Basic Law. 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 contains the fundamental right to equality before the law, which applies to the legislature, the executive and the judiciary. Also, no one may be disfavoured or favoured because of gender, descent, language, homeland and origin, faith or religious or political views or racially, and no one may be disfavoured because of disability (Article 3 para. 3 of the Basic Law). The different treatment of German and foreign nationals is permissible if it is compatible with the general principle of equality (BPB 2019).

On 18 August 2006, the General Equal Treatment Act entered into force in Germany, which, for the first time, established a comprehensive legal framework for protection against discrimination not only by state actors (Basic Law), but also by private actors (e.g. employers, property owners or even when visiting a club or restaurant).

The aim of the law is to prevent or stop “discrimination”¹²⁰ on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation (Section 1 of the General Equal Treatment Act).

On entry into force of the General Equal Treatment Act, the Federal Anti-Discrimination Agency was also set up at the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (Section 25 of the General Equal Treatment Act). It provides independent support to people in the assertion of their rights if they believe they have been discriminated against on any of the grounds set out in Section 1 of the General Equal Treatment Act. In addition to the Anti-Discrimination Agency (ADS), state, state-sponsored and/or non-state anti-discrimination agencies can be found in all Länder. Since January 2015, numerous counselling services have been supported by the federal programme ‘Live Democracy! Be active against right-wing extremism, violence and misanthropy.’ (German: Demokratie

leben! Aktiv gegen Rechtsextremismus, Gewalt und Menschenfeindlichkeit.)

The ‘National Action Plan against Racism’ (German: Nationale Aktionsplan gegen Rassismus, NAP) is an initiative launched in 2008 to combat racist violence, discrimination and ideologies. On 14 June 2017, the Federal Government adopted a new revised Action Plan (BMI 2017). It starts by outlining the objectives of the Federal Government:

- “Persons affected by racial discrimination, violence or other ideologies of inequality need protection and solidarity: They are to be strengthened by the government’s actions as well as by the activities of public institutions and social organisations and to be involved in the development of solutions,
- To reduce racism and racial discrimination and to enable a life free of discrimination in a democratic, diverse and pluralistic society,
- To intensify the discourse on ideologies of inequality, the combating and reduction of racism and the discrimination and prejudice associated with it,
- To further ensure the promotion of commitment, civil courage and the ability to manage conflict, as well as the strengthening of a living, diverse, democratic society and its values,
- To further develop or initiate the corresponding measures, taking international standards into account and on the basis of human rights; and
- To achieve a continuous increase in public awareness and sensitisation to equality and equal treatment at all levels of society” (BMI/BMFSFJ 2017: 6f.).

In the Federal Government’s National Action Plan for Integration, in Phase V ‘Strengthening cohesion – shaping the future’, among other things, anti-discrimination and measures against group-related misanthropy are also to be addressed. Thus, the Federal Government regards “combating the various forms of group-related misanthropy and all related forms of discrimination as a fundamental and urgent task” (Bundesregierung 2020b).

In 2018, a nationwide reporting centre against anti-Semitism (German: bundesweite Meldestelle gegen Antisemitismus) was set up. The patron is the Federal Government’s commissioner for anti-Semitism Felix Klein (Jüdische Allgemeine 2018; Niewendick 2018). The central reporting office headed by the Federal Association of Departments for Research and Information on Antisemitism (German: Bundesverband Recherche- und Informationsstellen Antisemitismus, RIAS) based in Berlin, began its work in November 2018 and

¹²⁰ In an evaluation of the General Equal Treatment Act of 2016 it is proposed to replace the concept of disfavour (German: Benachteiligung) with that of discrimination (German: Diskriminierung) “in order to meet the objectives of the European anti-discrimination directives on the one hand and, on the other, to strengthen legal certainty and promote social consciousness-raising through precise definitions” (ADS 2016: 25).

is above all to collect the reports of the decentralised reporting offices on anti-Semitic incidents and evaluate them for their quality. Those affected by anti-Semitism in Germany include German Jews as well as EU citizens and third-country nationals. Anti-Semitic rejection patterns are, on the other hand, not a migration-specific problem, but a widespread problem in parts of German society, as studies have shown repeatedly and also in 2018 (Decker et. al. 2018: 78ff.; Möller et. al. 2016: 329ff.).

6.2.2 National developments

Increase in anti-Semitic and racist acts of violence in Germany

After the Federal Office for the Protection of the Constitution recorded an increase in violent acts with a right-wing extremist background in 2018, the number of such violent acts fell by 15.0% in 2019 (2019: 925; 2018: 1 088), however, the number of offences with a right-wing extremist background increased by 9.7% in total (2019: 21 290; 2018: 19.409; BMI 2020a: 25). Overall, 2019 was characterised by particular right-wing extremist acts of violence. On the night of 31 December 2018 to 1 January 2019, in Bottrop and Essen, a man drove deliberately into groups of people. According to the North Rhine-Westphalian Minister of the Interior Herbert Reul (CDU), the man had the clear intention “to kill foreigners” (Müller 2019). At least five people were injured, including people from Syria and Afghanistan. On 2 June 2019, Kassel’s governmental district president Walter Lübcke (CDU) was shot dead. The politician had previously repeatedly aroused hostility for his open attitude towards asylum seekers and had become the target of hate posts on the Internet. In response to the murder, among other things, the risk to local politicians from right-wing extremist violence was discussed (Gensing 2019; Holl/Steppat 2020; Mediendienst Integration 2019).

On 9 October 2019, the holiest Jewish festival Yom Kippur, the alleged assassin Stephan B. opened fire on the outer door of the synagogue in Halle an der Saale, Saxony-Anhalt. At the time, 51 people were attending the service in the synagogue. Due to the security precautions, the perpetrator was not able to enter the building. He then shot and killed a passer-by and a customer at a kebab shop. He published a claim of responsibility on the Internet, revealing anti-Semitic, racist and misogynist motives for the crime. Among other things, the attack triggered a debate about radicalisation on the Internet and the right-wing extremist

threat in the country. Like the assassin of Christchurch in New Zealand¹²¹, Stephan B. filmed his act and broadcast it live on the Internet. The Office for the Protection of the Constitution sees the two attacks as evidence that “despite a decline in the number of violent right-wing extremist acts, there are dangerous elements in right-wing extremism that are no longer only to be found within established right-wing extremist structures and organisations, but which can develop on the fringes or even outside the right-wing extremist scene” (BMI 2020a: 54). In response to these developments, the Federal Government passed various measures (see below).

The number of right-wing extremists in Germany also increased significantly in 2019. The Office for the Protection of the Constitution counted 32 080 people on the right-wing extremist spectrum in 2019, up from 24 100 in 2018 (2017: 24 000) (BMI 2020: 53). Among other things, this was because for the first time, members of the AfD associations ‘Der Flügel’ and ‘Junge Alternative (JA)’ were counted as belonging to the right-wing extremist spectrum. Thus, for the year 2019, 8 600 persons with right-wing extremism potential were counted who belong to the AfD’s sub-organisations ‘Der Flügel’, JA, ‘Freie Bürger Union (FBU – Landesverband Saarland)’ or the small Bavarian party ‘Deutsche Konservative’, whereas in 2018 it was only 380 persons (BMI 2020: 53). The constitution protection authorities are also observing an increase in the so-called unstructured potential of people in the right-wing extremist area (2019: 13 500, 2018: 13 240, 2017: 12 900) (BMI 2019k: 50; BMI 2020: 53; Jansen 2019).

Package of measures to combat right-wing extremism and hate crime

In response to the right-wing terrorist attack in Halle an der Saale, after a joint meeting with the Federal Minister of the Interior on 18 October 2019, the ministers and senators of the interior issued a declaration of ten points for the protection of the democracy and the constitution (BMI 2019l). Subsequently, on 30 October 2019, the Federal Government passed a package of measures to combat right-wing extremism and hate crime. The aim of the package of measures is to defend liberal democracy by “all constitutional means against hatred, right-wing extremism and anti-Semitism” (BMJV 2019). Among other things, the package of measures includes:

¹²¹ On 15 March 2019, a 29-year-old Australian man carried out attacks on two mosques in New Zealand, killing 51 people. The man is a self-confessed racist (Deutsche Welle 2020a).

- Improved combating of hate crime on the Internet through reporting obligation for providers, with the Federal Criminal Police Office as the central authority,
- Supplementing and expanding the regulations of the Criminal Code (German: Strafgesetzbuch, StGB) with regard to violence and hate crime,
- Tightening of the weapons law,
- Intensification of processing in the right-wing extremist area in constitution protection,
- Expansion of the existing prevention programmes in the area of “right-wing extremism, anti-Semitism, racism and group-related misanthropy” as well as their continued financial support “at a high level” (among other things, continued funding of the programme ‘Live Democracy!’ until 2023¹²²) (BMJV 2019).

At the end of 2019, the details of the package of measures were still being agreed by the government departments.

Commissioners for integration and foreigners of the Länder called for stronger action against right-wing extremism

At their annual conference on 29 and 30 October 2019 in Saxony-Anhalt, the commissioners for integration and foreigners of the Länder discussed, among other things, “promising ways to prevent and combat right-wing extremism and anti-Semitism” (Ministerium für Arbeit, Soziales und Integration Sachsen-Anhalt 2019). The participants expressed their outrage at the right-wing extremist attack on 9 October 2019 in Halle an der Saale and stressed that in order to “protect our democracy [...] in addition to necessary security measures, stronger preventive work against racism, anti-Semitism and other forms of group-related misanthropy as well as an effective anti-discrimination policy are needed”. In this regard, among other things, they called for an increase in funding for the federal programme ‘Live Democracy!’ (Ministerium für Arbeit, Soziales und Integration Sachsen-Anhalt 2019).

Attacks on refugees, their accommodation and support networks

In 2019, a total of 1 872¹²³ offences were registered by the Federal Criminal Police Office in the context of

politically motivated crime (German: politisch motivierter Kriminalität, PMK) (2018: 1 775).

- These included 1 620 attacks against refugees, 128 attacks on accommodation and 124 attacks targeting ‘aid organisations/volunteers/voluntary helpers’ and the subject area ‘asylum and foreigner issues’.
- The offences ranged from sedition and insult to dangerous bodily harm, arson and murder and, with the exception of a few cases, were classified as right-wing politically motivated crime (German: rechts politisch motivierte Kriminalität, PMK -rechts-)¹²⁴ (Deutscher Bundestag 2020i).
- For 840 of the offences committed in 2019, 1 039 suspects (as of 31 January 2020) were identified (Deutscher Bundestag 2020i: 4).

However, the recording of political offences in the right-wing politically motivated crime statistics has long been criticised for statistically underestimating politically motivated violence. The reasons for this are that the categorisation of the crime already takes place when the offence is recorded. If a politically motivated background is only established during later investigations, the categorisation of the offence is nevertheless not changed. In addition, it is criticised that the recording focuses too much on extremist, i.e. anti-constitutional crimes and the concept of ‘racism’ is therefore defined very narrowly. The extent to which the responsible police officers are sensitised to the issue is also relevant. Indications of a racist motive are often not interpreted or recorded as such. It is only since 2017 that the investigations also have to take into account the viewpoints of those affected, which can often provide valuable information with regard to racist motivation (Lang 2018). In addition, racist offences are not always reported by those affected, “partly because they have little trust in the police. Victim support centres, which keep their own statistics, register significantly more offences than the authorities” (Lang 2018: 8).

¹²² Funding of the federal programme ‘Live Democracy!’ will continue in 2020 with over 115 million euros and thus remain at the same level (BMFSFJ 2019a).

¹²³ These are preliminary case numbers.

¹²⁴ “Crimes are classified as right-wing politically motivated crime if, based on an assessment of the circumstances of the crime and/or the attitude of the perpetrator, there are indications that, on reasonable consideration, they can be attributed to a ‘right-wing orientation, without the crime having to aim at the abrogation or abolition of an element of the free democratic basic order (extremism). The essential feature of a ‘right-wing’ ideology is the assumption of an inequality or disparity between people. Crimes in which references to ethnic nationalism, racism, Social Darwinism or National Socialism were fully or partially causative for the commission of the offence are generally to be qualified as right-wing extremist” (BKA 2020b).

Anti-Muslim racism and discrimination of Muslims in Germany

Hostility towards Muslims affects both immigrant Muslims and Muslims born in Germany. In 2019, 950 Islamophobic crimes¹²⁵ were registered (2018: 910), the majority of which are classified as right-wing politically motivated crime (BMI 2020f: 6). Having risen in the previous year, the number of Islamophobic violent crimes fell again slightly in 2019 (2019: 60, 2018: 74, 2017: 56) (BMI 2020g; Deutscher Bundestag 2020k: 8).

On 1 January 2019, a nationwide ‘catalogue of targets’ (German: Angriffszielkatalog) was also agreed upon, which now enables the statistical recording of attacks, for example, on mosques and meeting places or cultural associations, as well as bodily harm. As of 6 February 2020, 184 cases have been registered for the year 2019 (Deutscher Bundestag 2020k: 13, 17).

On 1 January 2019, a new provision of the house and bathing regulations for the public swimming pools of the city of Koblenz came into force, according to which a fundamental ban on the wearing of so-called burkinis was issued. On 12 June 2019, the Higher Administrative Court of Rhineland-Palatinate ruled in summary proceedings at the request of a Syrian asylum seeker that the provision is unconstitutional and violates the constitutional principle of equal treatment (OVG Rheinland-Pfalz 2019).

Anti-Semitism

Both immigrants and people of Jewish faith born in Germany are affected by anti-Semitism. At the beginning of 2019, the Federal Association of Departments for Research and Information on Antisemitism, which was founded in October 2018, began setting up a regional reporting and support network for people affected by anti-Semitic incidents in various Länder. In the year of the report, the Federal Association of Departments for Research and Information on Antisemitism was represented in four Länder (Bavaria, Berlin, Brandenburg and Schleswig-Holstein) and documented 178 anti-semitic incidents in Bavaria¹²⁶, 881 in Berlin, 138 in Brandenburg and 56 in Schleswig-Holstein¹²⁷. Since many of the people affected choose not to report anti-Semitic incidents for various reasons, it can be assumed that the actual numbers are significantly higher (Bundesverband RIAS e. V. 2020: 5, 8f.).

On 19 September 2019, the constituent meeting of the Federal and Länder Commission on Combating Anti-Semitism and Protecting Jewish Life (German: Bund-Länder-Kommission zur Bekämpfung von Antisemitismus und zum Schutz jüdischen Lebens) was held. The Federal Government commissioner for Jewish life in Germany and the fight against anti-Semitism, Felix Klein, welcomed the fact that “for the first time, representatives of all the Länder and the Federal Government are sitting together at one table as a commission”, as most of the fields of action are the responsibility of the Länder (for example, education, prevention, as well as police and criminal law matters; BMI 2019m). The establishment of the commission, like the creation of the office of the federal commissioner, is based on the mandate from a Bundestag resolution of 18 January 2018 to ‘resolutely combat anti-Semitism’. The body is to meet twice a year in future (BMI 2019m).

Antiziganism

Those affected by antiziganism in Germany include German Sinti and Roma as well as EU citizens and third-country nationals. Blanket patterns of rejection of Sinti and Roma are, on the other hand, not a migration-specific problem, but a widespread problem in parts of German society, as studies have repeatedly shown (Decker et al. 2018: 103ff.).

After the Federal Government agreed in its coalition agreement between the CDU, CSU and SPD to set up an expert commission on antiziganism (CDU/CSU/SPD 2018: 119), the expert commission started its work on 27 March 2019. The independent experts will “deal with manifestations and a survey of the topic of antiziganism in Germany” (BMI 2019n). The report is to be presented by the beginning of 2021 at the latest and serve as a basis for discussions in politics and society. The commission is provided with federal funding amounting to 550 000 euros per year (Deutscher Bundestag 2018e: 3). This was welcomed by the Central Council of German Sinti and Roma (German: Zentralrat der Deutschen Sinti und Roma), however, it was criticised that in Germany “the same efforts are not made in political education and in schools” as were made after National Socialism with regard to combating anti-Semitism (Ernst 2019).

On 5 April 2019, the Federal Minister for Family Affairs, Franziska Giffey together with Romani Rose, Chairperson of the Central Council of German Sinti and Roma and Managing Director of the Documentation and Cultural Centre of German Sinti and Roma (German: Dokumentations- und Kulturzentrums Deutscher Sinti und Roma) opened the Educational Forum against

¹²⁵ Since 2017, Islamophobic crimes have been recorded separately by the security authorities.

¹²⁶ Here, there was no comparison with the police data.

¹²⁷ Here, there was no comparison with the police data.

Antiziganism (German: Bildungsforum gegen Antiziganismus) in Berlin. The aim of the forum is to “impart knowledge about Sinti and Roma, reveal stereotypes and challenge them” (BMFSFJ 2019b). In addition, Sinti and Roma are to be given the opportunity “to exchange ideas among themselves in order to strengthen their identity and to stand up for their rights with self-confidence”. Since 2015, Sinti and Roma self-organisations have been supported in their antiziganism work within the framework of the federal programme ‘Live Democracy!’ (BMFSFJ 2019b).

‘Xenophobia’ and hate crime

Since 2019, ‘xenophobic’ crimes in Germany have been recorded in a new ‘xenophobic’ subject area of the ‘Criminal Investigation Registration Service for Politically Motivated Crime’ (German: Kriminalpolizeilichen Meldedienst Politisch motivierte Kriminalität, KPMD-PMK). For the year 2019, 3 703 crimes were recorded, of which 506 were violent crimes. Most of the offences (3 625) were attributed to the phenomenon area right-wing politically motivated crime (BMI 2020f: 6). In addition, a total of 7 909 (2018: 7 701) ‘xenophobic’ offences, including 828 (2018: 971) involving violence, were recorded in the area of hate crime (BMI 2020g).

Annual report of the Federal Anti-Discrimination Agency

The Federal Anti-Discrimination Agency received 3 580 requests for advice in 2019 (2018: 3 455), relating to discrimination criteria under the General Act on Equal Treatment (German: Allgemeines Gleichstellungsgesetz). Of these, 1 176 of the enquiries concerned ethnic origin (2018: 1 070). Ethnic origin was thus the most frequent reason for counselling, ahead of the criteria of gender and disability. Since 2015, the number of people going to the Anti-Discrimination Agency because of racial disadvantage has also more than doubled (ADS 2020: 12f.).

First German Anti-Discrimination Days (German: deutsche Antidiskriminierungstage)

On 2 and 3 December 2019, the Federal Anti-Discrimination Agency organised the first German Anti-Discrimination Days under the motto ‘What makes diversity’ (German: Was divers macht). More than 400 people from politics and research, administration, business, culture, media, education and civil society took part in the “intersectional and interdisciplinary” workshops, discussion events and case workshops organised in the framework of the Anti-Discrimination Days. It was thus the biggest event of its kind in Germany. Among other things, issues

of racism and integration were addressed. In addition, it was questioned whether the criteria catalogue of the General Equal Treatment Act was still sufficient to prevent discrimination at universities, for example, as well as the risks of discrimination brought about by algorithms (BMFSFJ 2019c).

7 Nationality and statelessness

At a glance

- In 2019, 128 905 people became German citizens by way of naturalisation, which is an increase of around 15% compared to the previous year. Almost one third of them were EU nationals. Most of the third-country nationals who were naturalised previously held Turkish citizenship.
- According to the Federal Statistical Office, at the end of 2019 there were 26 390 stateless people living in Germany, a small increase of 395 people compared to the previous year.
- The amendment to the Nationality Act makes it possible for people to lose their German citizenship if they specifically take part in combat action of a terrorist organisation abroad, provided that the loss would not render them stateless. In addition, further requirements for naturalisation were standardised: the secure establishment of identity as well as the ‘integration into German living conditions’.
- At the end of August 2019, two decrees were issued that make it easier for descendants of German victims of National Socialism living abroad who are not entitled to restoration of German citizenship to apply for naturalisation.

7.1 Background and general context

Acquisition of German citizenship

In general, German citizenship can be acquired by foreign nationals and their children by birth in the Federal Republic of Germany, adoption by a German parent or naturalisation.

On 1 January 2000, the provision on the acquisition of German citizenship according to the principle of descent (*ius sanguinis*) was supplemented by the principle of place of birth (*ius soli*). Since then, a child born in Germany whose parents are both foreign nationals acquires German citizenship at birth, provided that at least one parent has been a legal resident in Germany for eight years and has a permanent right of residence (Section 4 subs. 3 of the Nationality Act).¹²⁸ If the child also has a foreign nationality other than that of a Member State of the EU or Switzerland, the obligation to choose one citizenship (German: Optionspflicht) applies in accordance with Section 29 of the Nationality Act. After reaching the age of 21, the child is required to choose one of the two nationalities, but since the beginning of 2015 it only applies if they did not grow up in Germany (Worbs 2017).

Foreign nationals who have been living legally in Germany for a long time can acquire German citizenship through naturalisation. For a naturalisation claim in accordance with Section 10 subs. 1 of the Nationality Act, a number of requirements have to be met. This includes a residence permit that provides at least the prospect of permanent residence, as well as eight years of legal residence in Germany¹²⁹, to support oneself without recourse to social assistance¹³⁰ and having no

¹²⁸ Only in 2000 was it also possible to apply for retrospective acquisition through birth for children born between 1990 and 1999 (Section 40b of the Nationality Act).

¹²⁹ Under certain circumstances, the required period of legal ordinary residence can be reduced: after successful participation in an integration course to seven years, and with language skills from level B2 CEFR to six years.

¹³⁰ This requirement need not be met if the person concerned does

convictions for criminal offences. Naturalisation also requires sufficient knowledge of the German language (level B1 CEFR). Since 1 September 2008, those applying for naturalisation have also had to prove their knowledge of the legal and social system and living conditions in Germany in a standardised national naturalisation test. Persons with a German school-leaving certificate are exempt from this (BMI 2015: 15).

The provisions of Section 10 subs. 1 of the Nationality Act described above form the basis for the majority of naturalisations in Germany. In addition, naturalisation is possible *inter alia* for spouses, registered partners and minor children of an eligible person (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 Federal Statistical Office's annual subject matter series (StBA 2020e).

Due to the principle of avoiding multiple nationalities, as a rule, the previous nationality also has to be given up in the case of naturalisation (Section 10 subs. 1 first sentence No. 4 of the Nationality Act), however, there are exceptions if, for example, the previous nationality cannot be given up or only under particularly difficult conditions, as well as for persons entitled to asylum and recognised refugees (Section 12 subs. 1 of the Nationality Act). 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

Statelessness is internationally an undesirable phenomenon, because stateless persons lack “rights for which a citizenship is a prerequisite. For example, they cannot claim diplomatic protection abroad” (Hoffmann 2017: 325). Worldwide, an estimated 10 million people belong to this group of people, including many children who are already born stateless. According to the UNHCR, 75% of stateless people worldwide also belong to minorities (Deutscher Bundestag 2018f: 1). Statelessness has many causes; generally, it occurs if the person concerned is already born without citizenship (e.g. if the parents are already stateless), or if they lose their citizenship later without acquiring a new one (Hoffmann 2017: 325). In Germany, in implementation of Art. 1 of the Convention relating to the Status of Stateless Persons of 1954, a person is considered stateless if “no state

considers them to be a national under its domestic law” (BMI 2015: 18).

Alongside the residence law issues, the phenomenon of statelessness is particularly relevant in asylum and nationality law. In the asylum procedure, this mainly concerns ethnic Kurds and Palestinians who previously lived in Syria or Lebanon. However, such cases are to be distinguished from applicants with ‘unclear’ nationality, which are quantitatively much more significant (see Chapter 4.1.2.1). Statelessness has to be proven in the asylum procedure by means of appropriate documents. The Federal Office for Migration and Refugees does not make such determinations itself; in Germany, only the foreigners authorities can do this.

When acquiring German citizenship, there are simplifications for stateless people. For example, stateless people born in Germany who have had their lawful permanent residence in Germany for five years are to be naturalised on application if the application is submitted before they reach the age of 21 and they have not been legally sentenced to imprisonment or youth custody of five years or more (Deutscher Bundestag 2016c: 3). Other stateless persons are recognised as in need of protection under nationality law (BMI 2015: 18, No. 8.1.3.1) and can be naturalised after six years instead of the usual eight. Finally, the *ius soli* provisions also apply to children of stateless persons born in Germany, according to which it is possible to acquire German nationality under Section 4 subs. 3 of the Nationality Act.

In addition, possible statelessness in the event of a loss of German citizenship is to be taken into account. On the other hand, in case of withdrawal of an unlawful naturalisation in Germany – e.g. due to the intentional provision of incorrect or incomplete information by the applicant – the subsequent statelessness is also expressly permitted (Section 35 subs. 2 of the Nationality Act; on the previous legal situation Schmahl 2007). However, discretionary considerations are always to be made here. Exceptions are “conceivable in a few cases of hardship for the affected person which results from the statelessness and goes beyond the mere legal consequence” (BMI 2015: 62, No. 35.2).

7.2 National developments

Statistics on the acquisition of German citizenship

In 2019, the number of naturalisations rose to the highest level since 2003 (see Figure 10).

not claim benefits under the Second or Twelfth Book of the Social Security Code.

- 14.7% more people¹³¹ became German citizens through naturalisation than in the previous year (2019: 128 905; 2018: 112 340; StBA 2020e: 17).
- 50% of the increase can be attributed to the increasing number of naturalisations of British nationals, which had already been rising since 2016 – the year of the Brexit referendum – and reached its peak so far in 2019 with an increase of +8 000 naturalisations compared to the previous year, totalling 14 600 or 11.3% of all naturalisations. There were further notable increases in the number of naturalisations of people with Ukrainian (+1 800), Romanian (+1 500) and Syrian citizenship (StBA 2020f).
- The three largest naturalisation groups were people with Turkish (16 235), British (14 600) and Polish (6 020) citizenship. Among third-country nationals, these were followed by naturalised people with Iraqi (4 645 naturalisations), Ukrainian (4 260) and Syrian citizenship (3 860) (see table 8; StBA 2020e).
- Almost a third of those naturalised were people with citizenship of another EU Member State (StBA 2020e).
- The so-called exhausted naturalisation potential (German: ausgeschöpftes Einbürgerungspotential)¹³² was higher than in previous years (2019: 2.5%; 2018 and 2017: 2.2%; StBA 2020e).

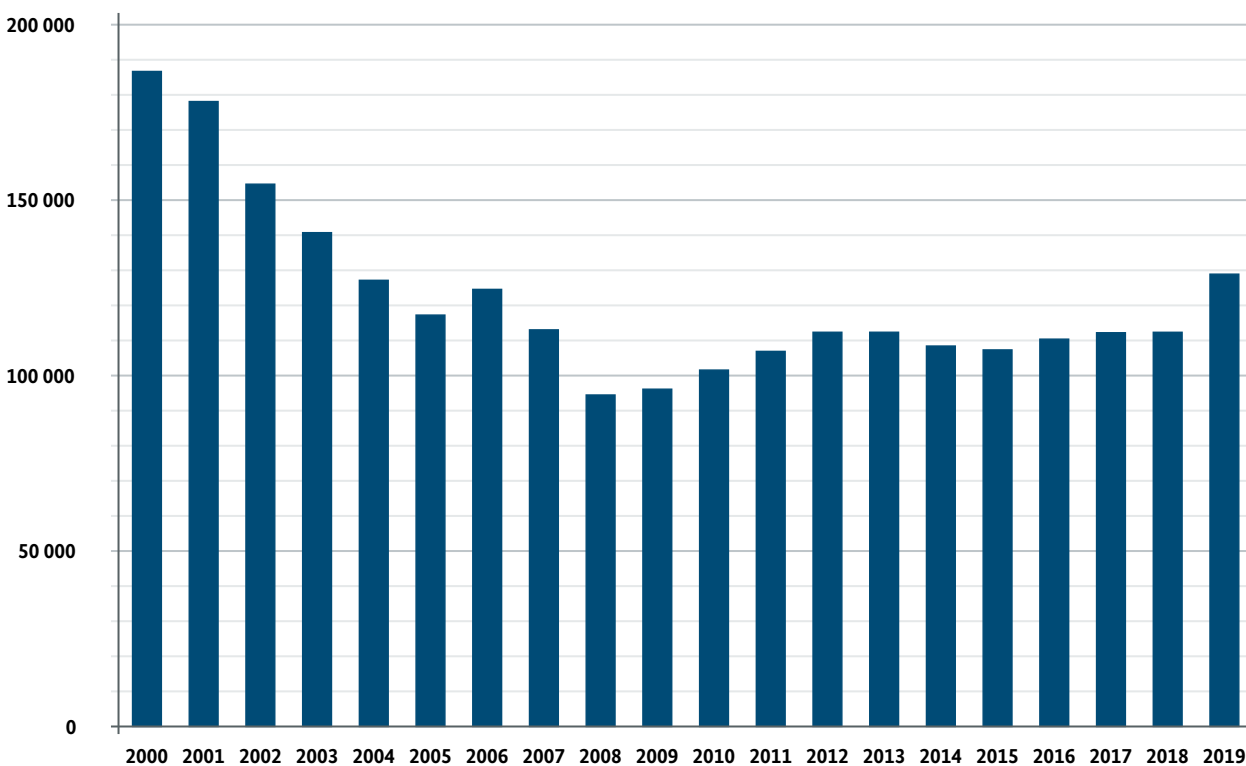
Statistics on statelessness

According to the Federal Statistical Office, at the end of 2019 there were 26 390 stateless people living in Germany, a small increase of 395 people compared to the previous year (2018: 25 995) (StBA 2020g: 31). Stateless persons thus accounted for 0.3% of the total foreign population in Germany at the end of 2019. The number

¹³² “The exhausted naturalisation potential relates the number of naturalisations (excluding naturalisations abroad) to the number of foreigners living in Germany who, according to the [...] Central Register of Foreign Nationals, have been in Germany for at least 10 years. By way of simplification, a period of residence of 10 or more years is taken to mean that all the requirements for naturalisation have been met” (StBA 2020e: 6).

¹³¹ The acquisition of German citizenship through birth in Germany is not included in the naturalisation figures.

Figure 10: Naturalisations in Germany (2000–2019)



Source: StBA 2020e.

Table 8: Number of naturalisations by most common nationality (2018–2019)

2019		2018	
Turkey	16 235	Turkey	16 700
United Kingdom	14 600	United Kingdom	6 640
Poland	6 020	Poland	6 220
Romania	6 394	Romania	4 325
Iraq	4 645	Iraq	4 080
Italy	4 475	Italy	4 050
Ukraine	4 260	Kosovo	3 840
Syria	3 860	Greece	3 235
Iran	3 805	Iran	3 080
Kosovo	3 795	Syria	2 880

Source: StBA 2020e.

of stateless persons has increased significantly since 2015. Before 2015, it was less than 15 000. This is probably related to the high influx of refugees in the years 2015–2017. The majority of stateless persons are male (57.7%) (StBA 2020g: 23, 31).

In 2019, 735 stateless people were naturalised, which corresponded to 0.6% of all naturalisations. From 2014 to 2019, a total of 4 986 stateless people were naturalised (StBA 2020e: 23ff.).

Third Act to Change the Nationality Act

In August 2019, with the entry into force of the ‘Third Act to amend the Nationality Act (German: Drittes Gesetz zur Änderung des Staatsangehörigkeitsgesetz’ a new ground for loss of citizenship was introduced (Section 28 subs. 1 No. 2 of the Nationality Act), according to which Germans lose their nationality if they specifically take part in combat action of a terrorist organisation abroad, provided that this does not render them stateless (Section 28 subs. 1 sentence 2 of the Nationality Act) (Deutscher Bundestag 2019x). This provision is intended to make it possible for IS fighters with multiple nationalities in particular to lose their German citizenship.

Furthermore, the amendment to the law standardised the secure establishment of the identity and nationality of a person as a general legal prerequisite for naturalisation (Section 8 subs. 1 of the Nationality Act). In addition, the principle of “integration into German living conditions”, which was previously only required in the context of discretionary naturalisations of spouses or partners of German citizens (Section 9 of the Nationality Act) was extended to all applicants for naturalisation.

In the context of entitlement naturalisations (Section 10 of the Nationality Act) the addition was also made that applicants for naturalisation “in particular [...] may not be married to more than one spouse at the same time”. This is to make it clear that persons living in polygamous marriages cannot be naturalised within the context of entitlement naturalisation. This new provision was criticised by the opposition parties Alliance 90/The Greens, The Left Party and the FDP, among others. On the one hand, the insertion of an exclusion clause in the area of polygamous marriages was judged to be inappropriate and, on the other hand, the concept of living conditions was criticised for being too vague, as this opened up the possibility of arbitrary interpretation of the term. With regard to polygamous marriages, the CDU/CSU parliamentary group emphasised that this was a matter of the constitutionally enshrined protection of marriage (Deutscher Bundestag 2019y: 13f.). During the debate in the Bundestag, the SPD made it clear that the term “integration into German living conditions”, although vague, had already been part of the Nationality Act for a long time, and legally referred to German language skills on the one hand and to passing the naturalisation test on the other, and was now merely supplemented by the amendment of the law to include the aspect of polygamous marriages (Deutscher Bundestag 2019aq: 13215ff.).

Reparation in nationality law

At the end of August 2019, the Federal Ministry of the Interior, Building and Community enacted two decrees that facilitate naturalisation for descendants of German victims of National Socialism who are not entitled to restoration of citizenship in accordance with Article

116 para. 2 of the Basic Law (BMI 2019i). This regulation concerns

- children born before 1 April 1953 to forcibly expatriated German mothers and foreign fathers (parents married),
- children born before 1 July 1993 to forcibly expatriated German fathers and foreign mothers (parents not married) whose paternity was validly recognised or established under German law before they reached the age of 23, and
- children whose German parent acquired a foreign nationality in connection with Nazi persecution measures and lost their German nationality; this also includes children whose mothers who emigrated due to persecution (in accordance with Section 17 No. 6 of the old version of the Reich and Citizenship Act (RuStAG) before 1 April 1953) lost their German nationality by marrying a foreign man, along with their descendants¹³³ (BMI 2019i).

In the political debate, there was a great deal of discussion on how best to resolve the issue of reparations. In some cases, it was questioned whether the new administrative regulations provide sufficient legal certainty in this regard or whether additional legal provisions are required. The opposition parties Alliance 90/The Greens, The Left Party and the FDP preferred a legal regulation for the naturalisation of descendants of victims of Nazi persecution (Deutscher Bundestag 2019z; Deutscher Bundestag 2019aa; Deutscher Bundestag 2019ab). During the public hearing on the draft bills and the motion of the opposition parties, the majority of the experts invited also expressed their support for a legal solution. On the other hand, there were also individual statements to the effect “that administrative regulations do not in fact make much difference to the legal position of [those] affected” (Deutscher Bundestag 2019ac: 8).

¹³³ The regulation only concerns descendants up to the “generation cut” introduced on 1 January 2000 in accordance with Section 4 subs. 4 first sentence of the Nationality Act: according to this, German citizenship is not acquired in case of birth abroad if the German parent was born abroad after 31 December 1999 and has his or her habitual residence there, unless the child would otherwise become stateless.

8 Border controls and visa policy

At a glance

- The Federal Police and the authorities responsible for policing cross-border traffic registered a total of 40 595 unauthorised entrants in 2019, a decrease of 4.4% compared to the previous year (2018: 42 478).
- On 8 November 2019, the European Council adopted a proposal to amend the Regulation on the European Border and Coast Guard. This extends Frontex's mandate, particularly in the areas of border control, return and cooperation with third countries.
- In 2019, more than 1.95 million Schengen visas and 324 636 national visas were issued by German diplomatic missions.

8.1 Border controls

8.1.1 Background and general context

Under Schengen law, border controls are fundamentally only permitted at Germany's external air and sea borders. At the internal Schengen borders¹³⁴ however, even after the abolition of stationary border controls, the exercising of police powers to combat cross-border crime is permitted in accordance with the Schengen Borders Code. Such controls are carried out by the Federal Police on the basis of knowledge of the situation or border police experience in the form of spot checks, also in the territory of the railway systems of the Federal Railways, on trains, at airports (internal flights) as well as at seaports. Border protection includes preventing and stopping unauthorised entries, combating cross-border smuggling of migrants and other offences related to cross-border crime. If, in connection with unauthorised entry into the federal territory, a person is found within a 30-kilometre corridor along the border with neighbouring EU states, measures are taken to terminate residence, such as removal following unauthorised entry (see Chapter 10).

The control of the external air and sea borders is carried out on the basis of the regulations of the Schengen Borders Code. Document reading and checking devices are used to check the authenticity of documents on the basis of optical and digital features. In addition, biometric procedures are increasingly used in border control, in particular to check the identity of travellers (e.g. the control of electronic passports or automated border control systems).

The Federal Police cooperates with police authorities of EU Member States and third countries in border police tasks. Border police cooperation with third countries is an important part of the integrated border management for the protection of the EU's external borders

¹³⁴ The Schengen area includes the Member States of the EU (with the exception of the United Kingdom (EU exit on 31-1-2020), Ireland and Cyprus) as well as Iceland, Liechtenstein, Norway and Switzerland. Bulgaria, Croatia and Romania are candidate countries for the Schengen area.

within the framework of the forward displacement strategy and, in addition to the various personnel secondments, also includes the instrument of (border) police development assistance. This essentially comprises training assistance within the framework of bilateral individual measures and EU-funded projects.¹³⁵ The aim of these measures is to improve cooperation with the respective foreign (border) police authorities while taking important migration-relevant issues into account. For example, the liaison officers, document and visa advisors and ‘border police support officers abroad’ (German: Grenzpolizeiliche Unterstützungsbeamtinnen und -beamte Ausland) (e.g. at Greek airports) are to prevent illegal entry into Germany within the framework of the forward displacement strategy by advising the transport companies and authorities abroad. In addition, the strengthening of border police structures in the Länder is promoted.

In addition, the European Border and Coast Guard Agency (Frontex), with its headquarters in Warsaw, has increasingly gained in importance in recent years when it comes to the control and protection of the EU’s external borders and the operational implementation of return measures. Frontex coordinates the operational cooperation of the EU Member States at the EU’s external borders whilst respecting national competences, supports the Member States as a ‘service provider’ in the training of national border guards with the aim of harmonisation, prepares risk analyses and supports the Member States technically and operationally, in particular through joint operations or other services (Information network EUROSUR, research and development, studies/recommendations for action, etc.). Since 2012, an independent fundamental rights officer of the Agency and the Consultative Forum¹³⁶ on Fundamental Rights have addressed the observance of fundamental and human rights in all Frontex activities (Frontex 2020a).

Furthermore, in recent years, numerous developments have been initiated at the European level in the area of data exchange between the Member States in order to be able to better control the entry and exit of third-country

nationals in particular. For example, in 2017, the Schengen Borders Code was amended¹³⁷ to enable increased checks of relevant databases at the EU’s external borders.

In June 2017, the EU Directive on the use of passenger name record data ((EU) 2016/681) was also transposed by the Passenger Data Act (German: Fluggastdatengesetz¹³⁸ which was aimed at the prevention, detection, investigation and prosecution of terrorist offences and serious crime. The Directive provides for the “mandatory transfer of passenger data by airlines for flights departing from the European Union to a non-EU country or from a non-EU country to a Member State of the EU” (Deutscher Bundestag 2017a).

Automated border control - EasyPASS

The (partially) automated border control system EasyPASS was further expanded at German airports in 2019. At the time the report was prepared, 239 EasyPASS control lanes were in operation at the airports in Berlin-Brandenburg (BER), Düsseldorf, Frankfurt am Main, Hamburg, Cologne/Bonn and Munich (Federal Police 2020b). The basis of EasyPASS is the facial image stored in the passport and optionally in the German identity card. The system thus speeds up entry into and exit from the Schengen area. In addition to citizens of EU and EEA countries and Switzerland, the EasyPASS procedure is also open to registered travellers from selected third countries. In 2019, corresponding agreements existed with the United States of America, the People’s Republic of China Hong Kong Special Administrative Region and the Republic of South Korea. In return, German citizens can participate in the respective partner programmes in these countries (BPOL 2020c).

8.1.2 National developments

Statistics

Since 2016, the number of people registered by the police authorities as having entered the country unlawfully¹³⁹ has fallen significantly.

¹³⁵ For a detailed list of police deployments abroad, including in bilateral and multilateral projects, cf. Deutscher Bundestag 2020L.

¹³⁶ As of January 2020, the following 14 organisations are part of the Forum: EASO, FRA, UNHCR, Council of Europe, IOM, the Office for Democratic Institutions and Human Rights (ODIHR), the Organisation for Security and Cooperation in Europe (OSCE), the United Nations High Commissioner for Human Rights, Amnesty International European Union Office, Commission of the Churches for Migrants in Europe, International Commission of Jurists, Jesuit Refugee Service, Platform for International Cooperation on Undocumented Migrants (PICUM, pending PICUM confirmation, Red Cross EU Office and Save the Children (Frontex 2020a).

¹³⁷ The basis for the amendment is Regulation (EU) 2017/458; 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.

¹³⁸ Law on the processing of passenger data transposing the Directive (EU) 2016/681 (German: Gesetz über die Verarbeitung von Fluggastdaten zur Umsetzung der Richtlinie (EU) 2016/681).

¹³⁹ Among others, people who have entered the country without the required passport or passport substitute or without the required residence permit are considered to have entered the

- In 2019, the number of persons entering the country unlawfully decreased by 4.4% (2019: 40 595; 2018: 42 478; Deutscher Bundestag 2019ad: 2).
- The ten main nationalities among those who entered unlawfully were Afghanistan, Nigeria, Albania, Iraq, Ukraine, Syria, Turkey, Serbia, China and Iran (Deutscher Bundestag 2020m: 54).
- 13.3% more people were turned back at the border for attempted unlawful entry than in the previous year (2019: 13 689; 2018: 12 079; Deutscher Bundestag 2019ad: 10, 2020f: 15; see Chapter 10.2.2).

Temporary reintroduction and extension of border controls at Schengen internal borders

The border controls¹⁴⁰ at the German-Austrian border, which were reintroduced in September 2015, were continued throughout the reporting year 2019 and extended for another six months on 12 November 2019 for migration and security policy reasons (according to Art. 25-27 of the Schengen Borders Code; BMI 2019o; Deutscher Bundestag 2019ar: 6). In addition, on 6 November 2019, “intensified control and search measures were ordered at the German internal borders”, within the framework of which “almost 180 people with re-entry bans were prevented from illegally entering Germany” within the first four weeks and “around 250 people wanted on arrest warrants were apprehended in the German border area” (BMI 2019o).

In addition to Germany, the EU Member States Austria, Norway, Sweden, Denmark and France have also introduced temporary controls at their internal borders since 2015. As in previous years, the renewed extension of border controls was criticised by experts (Schacht 2019; see also EMN/BAMF 2019: 73). For example, the question of how to proceed with the legal provisions of the Schengen area continued to arise in 2019. In 2017, the EU Commission had already proposed an amendment to the Schengen Borders Code that would, among other things, extend the maximum possible duration of controls to three years. The European Parliament, on the other hand, wanted to tighten the existing rules. In 2019, no agreement on this issue was yet in sight (Schacht 2019).

country unlawfully (Section 14 subs. 1 No. 1 or 2 of the Residence Act in conjunction with Section 3 subs. 1 and Section 4 of the Residence Act).

140 “The internal border controls are ordered on national responsibility on the basis of Art. 25 to 27 of the Schengen Borders Code (SBC) for migration and security policy reasons. According to Article 27 of the Schengen Borders Code, this has to be reported to the other EU Member States and the European Commission, among others, at least four weeks before it takes effect” (BMI 2018d).

8.1.3 Developments related to the EU

Statistics

At the EU’s external borders, a decrease in unlawful border crossings was recorded in 2019.

- 4.9% fewer unlawful border crossings were documented than in the previous year (2019: 141 846; 2018: 149,117).
- At the same time, there was an increase of 11.2% in refusals of entry (2019: 212 097; 2018: 190 658; Frontex 2020b: 9).

Participation in operations of the European Border and Coast Guard

A total of 918 police officers were deployed in Frontex operations in 2019. In the fourth quarter of 2019, the focus of operations was on Albania, Bulgaria, Greece, Italy, Croatia and Spain (Deutscher Bundestag 2020l: 13f).

In 2019, the Federal Police also provided technical equipment in various Frontex operations, such as two surveillance and patrol boats to the Greek authorities as part of the Frontex operation ‘Poseidon’, ten patrol vehicles to the Bulgarian border authority to guard the Bulgarian-Turkish external land border as part of the Frontex operation ‘Flexible Operational Activities’, ten patrol vehicles to the Greek police to guard the northern Greek external land border as part of the Frontex mission ‘Flexible Operational Activities’ and five patrol vehicles to the Albanian border police, also as part of the ‘Flexible Operational Activities’ (Deutscher Bundestag 2020l: 13ff.; figures relate to the fourth quarter 2019).

In addition, Germany participated in several return operations coordinated by Frontex, in which several EU Member States and, to some extent, Norway and Switzerland were involved. The destination countries of the joint return measures with German participation included Russia, Nigeria, Pakistan, Georgia, Albania, Kosovo and Bangladesh (Deutscher Bundestag 2020l: 15).

New Regulation on the European Border and Coast Guard

On 8 November 2019, the European Council adopted a proposal to amend the Regulation on the European Border and Coast Guard¹⁴¹. This extends Frontex’s

141 Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019. on the European Border and Coast Guard and repealing Regulations (EU) No. 1052/2013 and (EU) 2016/1624.

mandate in the context of assisting Member States, “especially on border control, return and cooperation with third countries” (Europäischer Rat 2019c). Furthermore, there is also an increase in staff and technical equipment. The “European Border Surveillance System (EUROSUR) [will also be incorporated] into the European Border and Coast Guard framework, to improve its functioning” (Europäischer Rat 2019c). Among other things, under the new provisions, Frontex will be given a “standing corps” in order to be able to support the officials of the Member States on the ground more effectively (Europäischer Rat 2019c). With the implementation of the regulation, the Agency will have a standing corps of its own forces as well as short- and long-term seconded personnel from Member States, which will grow steadily (from 6 500 forces from 2021 to 10 000 from 2027). In addition, from now on, the Border and Coast Guard Agency will be able to provide technical and operational support to Member States in border control, forced returns and cross-border crime (KOM 2019c; on the debate see Chapter 2.2.1). In order to be able to meet the obligations to provide personnel for the standing corps, the Federal Police began drawing up plans to implement the regulation.

The political discussions on the extended mandate of the European Border and Coast Guard Agency took place in April 2019, just before the European Parliament elections. For example, the European Parliament and the European Council on Refugees and Exiles (ECRE), among others, were widely critical (ECRE 2018; Europäisches Parlament 2019c). The Commission’s proposal to extend Frontex’s mandate with regard to the initiation of forced return operations in third countries (Art. 54 subs. 2 COM(2018) 631 final¹⁴²), the introduction of ‘controlled centres’ (Art. 2 subs. 24 COM(2018) 631 final) and the extension of Frontex’s powers in the area of preparation of return decisions (Art. 49 COM(2018) 631 final; ECRE 2018) were particularly criticised. Also in the context of the expansion of the Frontex mandate, calls were made for more effective monitoring of human rights, for example through “an institutionally independent complaint mechanism that is easily accessible for victims and that can make legally binding decisions” (Pro Asyl 2019b: 3).

Due to the widespread criticism, some of the proposals were ultimately not included in the new Frontex regulation. Among other things, the planned new regulations on the initiation of forced return operations in

third countries and the establishment of ‘controlled centres’ were dropped. The planned expansions of Frontex powers with regard to forced returns also turned out smaller than planned. With regard to the monitoring of human rights, the European Union’s Fundamental Human Rights Agency (FRA) and the European Greens (European Free Alliance, EFA) were able to push through their demands for a complaints mechanism and the strengthening of the role of the Frontex fundamental rights officer. It was “questionable, however”, “whether the establishment of institutionalised complaints mechanisms is sufficient”, because, among other things, major hurdles remain in the lodging of such complaints (Braun 2019).

8.1.4 Developments with an international dimension

Liaison personnel of the Federal Police abroad

As at the reference date of 31 December 2019, 35 border police liaison officers of the Federal Police and 3 police advisors were deployed, operating in 53 countries worldwide. New posts were created in Senegal and Ghana in 2019. In addition, a total of 52 document and visa advisors were deployed at 33 locations in 25 countries. The document and visa advice centre in Seoul, South Korea was closed. In addition, Federal Police staff are deployed internationally in ‘joint centres for police and customs cooperation’ (German: Gemeinsamen Zentren der Polizei- und Zollzusammenarbeit) (cooperation with France in Kehl; with Luxembourg, Belgium and France in Luxembourg; with Denmark in Padborg; with Austria in Passau; with the Czech Republic in Petrovice and Schwandorf; with Poland in Swiecko; BMI 2020h). In addition, as at 31. December 2019, 12 Federal Police officers were deployed as border police assistance officers abroad (German: Grenzpolizeiliche Unterstützungsbeamte Ausland, GUA) on a bilateral basis to assist in the prevention of illegal entries (France, Greece, Italy and Spain; Deutscher Bundestag 2020: 12).

Cooperation with third countries in the area of border security

The ‘Training and equipment support programme for foreign police forces’ (German: Programm für Ausbildungs- und Ausstattungshilfe für ausländische Polizeikräfte, AAH-P) (Deutscher Bundestag 2019ae: 8), which was launched in 2017 and runs until 2020, was also continued in 2019. Tunisia, the Autonomous Palestinian Territories, Morocco, Jordan and Nigeria benefit from the programme during this period, and

¹⁴² Proposal for a regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action 98/700/JHA, Regulation (EU) No 1052/2013 of the European Parliament and of the Council and Regulation (EU) 2016/1624 of the European Parliament and of the Council.

are provided with a total budget of 20 million euros (BPOL 2018a: 23). The training and equipment support programme primarily comprises police training, but also the procurement of training-related equipment, though this does not include items intended for the direct use of force. The aim is to enable the police in the recipient countries to carry out police work independently at a high professional level. Another goal is to strengthen border management in third countries and to combat smuggling and irregular migration. In this context, the rule of law and respect for human rights are to become an integral part of their work (EMN/BAMF 2018: 89).

First joint operation of Frontex in a third country

On 21 May 2019, together with the authorities of the Republic of Albania, Frontex launched “the first joint operation on the territory of a neighbouring non-EU country” (KOM 2019d). Within the framework of this operation, border guards from both parties will be deployed on the Albanian border with Greece. Frontex is deploying “50 officers, 16 patrol cars and 1 thermovision van from 12 EU Member States” (incl. Germany; KOM 2019d). The foundation for the operation is a status agreement between the EU and Albania, which was signed in October 2018 and entered into force on 1 May 2019.¹⁴³ A similar agreement was signed with Montenegro on 7 October 2019, and further agreements with Northern Macedonia, Serbia and Bosnia and Herzegovina have been initialled and are expected to be concluded soon (KOM 2019e). “Strengthened cooperation between priority third countries and the European Border and Coast Guard Agency will contribute to the better management of irregular migration, further enhance security at the EU’s external borders and strengthen the Agency’s ability to act in the EU’s immediate neighbourhood, while bringing that neighbourhood closer to the EU” (KOM 2019d).

8.2 Visa policy

8.2.1 Background and general context

Third-country nationals generally need a visa to enter and stay in Germany. Visas for short stays (‘Schengen visas’) of up to 90 days (per period of 180 days) and for transit fall within the legislative competence of the EU and are regulated uniformly for all states of

the Schengen area in the Visa Code (Regulation (EC) No 810/2009). The third countries whose nationals do not require a visa for short stays in the Schengen area are also defined at EU level (Regulation (EU) 2018/1806).¹⁴⁴ For intended stays of more than three months, third-country nationals require a national visa (‘D visa’).

Schengen visa

Schengen visas entitle the holder to stay within the entire Schengen area (unless geographically limited in accordance with Art. 25 of the Visa Code) for up to 90 days within a 180-day period and are issued by the Schengen State which is the sole or main destination of the journey or via which the person concerned enters (AA 2020b). As a rule, the visa has to be applied for at the responsible diplomatic mission before entering the country. Gainful employment is generally not permitted during the short stay. The diplomatic mission responsible for issuing the visa decides on the issuance at its discretion on a case-by-case basis, “there is no entitlement to the issuance of a Schengen visa” (AA 2019a). Prerequisites for the issuance by German diplomatic missions include:

- the “plausibility and comprehensibility of the purpose of the journey to Germany”,
- the “financing of the living and travel costs from one’s own assets or income”,
- the “willingness of the visa holder to leave the Schengen area again before the expiry of the visa”,
- and the “presentation of travel health insurance valid for the entire Schengen area and for the entire duration of stay with a minimum cover of 30 000 euros” (AA 2019a; Art. 32 subs. 1 of the Visa Code).
- The financing can also be demonstrated “by the submission of a formal declaration of commitment pursuant to Sections 66 to 68 of the Residence Act by a third person” (AA 2019a).
- Furthermore, there may be no danger to public security and order as a result of the entry (Art. 32 subs. 1 letter a) vi) of the Visa Code).

The Visa Information System (VIS) is a database which all diplomatic missions of the Schengen states and the border control points at the EU’s external borders have access to. Fingerprints, passport photos and other data from the visa application are stored in the database (KOM 2020b).

¹⁴³ Status agreement between the European Union and the Republic of Albania on the implementation of operations by the European Border and Coast Guard Agency in the Republic of Albania.

¹⁴⁴ An up-to-date list of visa-free countries can be found at <https://www.auswaertiges-amt.de/de/service/visa-und-aufenthalt/staatenliste-zur-visumpflicht/207820> (25.5.2020).

National visas

Third-country nationals who wish to work, study or stay in Germany for a longer period of time for other reasons require a national visa. The visa “must fundamentally be applied for at the responsible diplomatic mission before entering the country. It fundamentally requires the consent of the competent foreigners authority in Germany” (AA 2020b). The requirements for the issuance of a national visa are based on the requirements for the issuance of the residence permit intended for the respective purpose (Section 6 subs. 3 of the Residence Act). After entering the country, an application for the corresponding residence permit is usually submitted to the foreigners authority. 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 for the required residence permit directly at the foreigners authority in Germany. National visa holders can also move freely throughout the Schengen area for up to 90 days within a 180-day period (AA 2020b).

Visa liberalisation processes

Several third countries outside the EU have been exempted from the visa requirement to enter the Schengen area in recent years¹⁴⁵. The limited visa exemption¹⁴⁶ was already introduced on 19 December 2009 for Northern Macedonia (formerly Macedonia), Montenegro and Serbia, on 15 December 2010 for Albania and Bosnia and Herzegovina, and on 28 April 2014 for the Republic of Moldova, on 27 March 2017 for Georgia and on 11 June 2017 for Ukraine. The Republic of Kosovo is thus the only Western Balkan state whose citizens are not exempt from the visa requirement (Hoffmeyer-Zlotnik 2019: 17f.). In July 2018, the European Commission had already confirmed that Kosovo fulfilled all the conditions for granting visa-free travel and recommended visa liberalisation for Kosovo to the European Parliament and the European Council. However, negotiations between the institutions on the Commission’s proposals

¹⁴⁵ Visa liberalisation can “influence migration - in both desirable ways (e.g. an increase in short-term stays or business connections) and undesirable ways (e.g. an increase in the number of so-called ‘overstayers’ or unfounded asylum applications). For this reason, too, agreements facilitating the issuance of visas and on visa liberalisation are usually linked to the conclusion of readmission agreements” (Hoffmeyer-Zlotnik 2019: 15).

¹⁴⁶ For holders of biometric passports. Visa liberalisation can “influence migration - in both desirable ways (e.g. an increase in short-term stays or business connections) and undesirable ways (e.g. an increase in the number of so-called ‘overstayers’ or unfounded asylum applications). For this reason, too, agreements facilitating the issuance of visas and on visa liberalisation are usually linked to the conclusion of readmission agreements” (Hoffmeyer-Zlotnik 2019: 15).

were not yet completed by the end of the reporting year 2019 (KOM 2020c).

8.2.2 National developments

Statistics

In 2019, a total of 2 563 240 visa applications were processed at the visa offices of the German diplomatic missions, corresponding to an increase of 5.7% compared to the previous year (2018: 2,424,287). Over 1.95 million Schengen visas (2018: 1.87 million) and 324 636 national visas (category ‘D’) (2018: 300 938) were issued. The number of rejected applications increased in comparison to 2018 from 241 796 to 268 865 (AA 2020a).

8.2.3 Developments related to the EU

Reform of EU visa policy

On 20 June 2019, Regulation (EU) 2019/1155¹⁴⁷ amended the EU Visa Code. The European Commission had already delivered the corresponding proposal on 14 March 2018 (KOM 2018a). The amendments “provide faster and clearer procedures for legitimate travellers” (Europäischer Rat 2019d), by means of new application deadlines, electronic filling and signing options, and multiple entry visas with longer validity periods. At the same time, the visa fees for Schengen visas increased to 80 euros. Further fee adjustments are to be reviewed every three years. For “better cooperation on the readmission of irregular migrants”, “by introducing a new mechanism for using visa processing as leverage” (the so-called visa lever; Europäischer Rat 2019d). Following an assessment of third countries’ cooperation on readmission, both facilitations and restrictions in the visa issuing processes, up to and including an increase or decrease of the visa fee, can be introduced by adopting an implementing decision (Europäischer Rat 2019d).

Reform of the common Visa Information System (VIS)

On 16 May 2018, the EU Commission had already submitted a reform proposal for a revised regulation on the common ‘Visa Information System’ (VIS) to the European Parliament and the Council (KOM 2018b). “The VIS connects Member States’ consulates around the world and all their external border crossing points. The system performs biometric matching, primarily of fingerprints,

¹⁴⁷ Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No. 810/2009 establishing a Community Code on Visas (Visa Code).

for identification and verification purposes” (KOM 2018b: 1). Among other things, the proposal provides for future interoperability between VIS, the European Travel Information and Authorisation System (ETIAS) and the Entry/Exit-System (EES) and other registers as part of a single platform. Furthermore, a multiple-identity detector is to be introduced to make it easier to counter identity fraud. In addition, the European Search Portal (ESP) “will enable single searches to receive results from different systems” (KOM 2018b: 2). Finally, the data of persons with national visas and residence permits for longer stays (longer than 90 days) will also be stored in future (KOM 2018b: 4).

The European Parliament took a position on this proposal on 13 March 2019 and adopted 252 amendments (Europäisches Parlament 2019d). By the end of the reporting year 2019, the further negotiations on the Commission’s proposals had not yet been concluded between the institutions (EUR-Lex 2020).

The practice of issuing ‘golden visas’ and ‘golden passports’ in the EU

On 23 January 2019, the European Commission submitted a report on the simplified citizenship/residence scheme (so-called ‘golden passports’ or ‘golden visas’) for foreign investors in the Member States. With regard to the granting of citizenship, such procedures are currently carried out in three EU states. For residence schemes, the possibility even exists in 20 EU states. According to the Commission, such simplified issuing practices pose risks “in particular, as regards security, money laundering, tax evasion and corruption”, which are further exacerbated by “a lack of transparency [...] and a lack of cooperation among Member States” (KOM 2019f). The Commission therefore decided to set up an expert group, in which the German Federal Government is also represented. This “developed joint guidelines of the EU Commission and the Member States on the combating of money laundering, tax evasion and corruption as well as with regard to the monitoring of security systems in four meetings in 2019. These guidelines are to be finalised in 2020 and measures for their implementation initiated” (Deutscher Bundestag 2019ag).

Germany has no investor programmes relating to nationality. In Germany, no residence permits are issued solely on the basis of a financial investment. It is only possible to issue a residence permit for the purpose of self-employment, which may also include an investment, but the focus of which must be on the business activity (Section 21 of the Residence Act).

9 Irregular migration and migrant smuggling

At a glance

- The number of irregular residents without contact to the authorities cannot be reliably established in Germany.
- The number of persons obliged to leave the country as at the reference date of 31 December 2019 was 249 922, an increase of 5.9% compared to the previous year. About four-fifths of them were living in Germany with a temporary suspension of removal, which is 12.4% more than in 2018. Approximately 60% of those obliged to leave the country were people whose asylum application had been rejected.
- The number of residence permits for well-integrated young persons and young adults whose removal has been suspended as well as for their parents has increased.

9.1 Background and general context

The reasons for and manifestations of irregular migration are diverse. They include illegal entry followed by illegal residence in a state as well as legal entry followed by illegal residence, for example because the person concerned does not leave after expiry of their residence permit. Persons whose asylum application has been rejected and who are consequently obliged to leave the country are also considered to be illegally resident. Persons with a temporary suspension of removal are also obliged to leave the country. The temporary suspension of removal certifies, however, that removal is currently impossible in fact or in law and is therefore temporarily suspended (Section 60a subs. 2 first sentence of the Residence Act).

Dealing with illegal entries and illegal residence in Germany includes preventive measures as well as migration control measures, for example in the visa procedure and in securing the external borders. On the other hand, it includes measures to promote (voluntary) return as well as removals and removals following unauthorised entry (see Chapter 10), but also regulations for the situation of illegal residents in Germany whose obligation to leave the country cannot be enforced or whose residence is unknown to the authorities.¹⁴⁸ These include the granting of a temporary suspension of removal and, under certain conditions, the change from a temporary suspension of removal to a residence permit (Sections 18a, 25 subs. 5, 25a and 25b of the Residence Act), as well as easier access to schooling and health care for irregular residents (Hoffmeyer-Zlotnik 2017; Grote 2015).

¹⁴⁸ Employees of schools and other educational establishments are exempt from the obligation of public bodies to report illegal residents to the foreigners authority (Section 87 of the Residence Act). Doctors, members of recognised medical professions as well as “the administrative staff of public hospitals concerned with accounting, as well as psychologists, family, child and youth counsellors, pregnancy conflict counsellors, addiction counsellors, social workers and social pedagogues and all employees in public youth welfare” would, on the other hand, “violate their legal professional duties if they disclosed personal data to the foreigners authorities which had been entrusted to them by a person without papers” Caritas NRW 2020).

While the number of people who are obliged to leave the country according to the Central Register of Foreign Nationals is recorded, the number of people residing illegally in Germany without contact to the authorities cannot be reliably determined; the figures can only be approximated by means of estimates and projections. A reliable estimate of the number of third-country nationals residing irregularly in Germany (excluding people whose removal has been suspended) was last made a few years ago by the CLANDESTINO project. With the estimation procedure used, the number of illegally resident third-country nationals without contact to the authorities was last estimated at between 180 000 and 520 000 for the year 2014. Due to the sharp increase in the number of asylum seekers in Germany from 2015 onwards and the resulting changes in official recording and registration methods, as well as possible double entries in the statistics, the researchers have not been able to reliably continue their estimates since then (Vogel 2016: 5ff.).

Illegal entry or illegal residence is a criminal offence and is generally punishable by a fine or imprisonment. For some offences, even the attempt is punishable (Section 95 subs. 1 No. 2 and 3, subs. 2 No. 1 and 2; subs. 3 and 6 of the Residence Act). However, this does not apply to people who entered the country illegally, apply for asylum immediately after entry and are granted refugee status (Section 95 subs. 5 in conjunction with Art. 31 subs. 1 of the Geneva Refugee Convention). It is also an offence to incite or assist another person to enter or reside illegally if the person concerned receives a pecuniary advantage or the promise of a pecuniary advantage in return or acts in such a manner repeatedly or for the benefit of several persons (so-called smuggling, Section 96 subs. 1 of the Residence Act). If smuggling is carried out on a commercial or gang basis, with a firearm or involving danger to life and limb, or if it even causes the death of those smuggled, the penalty is significantly higher (Sections 96, 97 of the Residence Act).

The German system of migration control and the prevention of irregular migration also includes external controls (see Chapter 8) and internal controls (Schneider 2012: 50ff.). At the national level, the 'Joint Analysis and Strategy Centre on Illegal Migration' (German: Gemeinsamen Analyse- und Strategiezentrum illegale Migration, GASIM) is of particular importance. It gathers findings on illegal migration and related forms of crime from the authorities and agencies involved¹⁴⁹

¹⁴⁹ The following authorities are involved in the Joint Analysis and Strategy Centre on Illegal Migration: the Federal Police, the Federal Criminal Police Office, the Federal Office for Migration and Refugees, the Custom's Financial Investigation Office

in the sense of an information, analysis, strategy and early warning function. The Federal Police conducts information gathering abroad within the framework of its forward displacement strategy, in particular through the deployment of border police assistance officers abroad, document and visa advisors in selected countries of origin and transit and the deployment of border police liaison officers for strategic-political cooperation. The same applies to the liaison staff of the Federal Office for Migration and Refugees in selected EU and third countries. Another new component to prevent illegal entries from third countries are information campaigns in the countries of origin as well as the online information campaign 'Rumours about Germany',¹⁵⁰ which was launched in October 2017 by the Federal Foreign Office and aims to "inform" "irregular migrants", who often do not know "what dangers they are putting themselves in or how to make the journey legally" and thus "give them a better decision-making basis" (AA 2020e).

Another component of knowledge acquisition is the cooperation with the European Border and Coast Guard (Frontex) and the European Union Agency for Law Enforcement Cooperation (Europol) through the exchange of periodic and/or issue-related evaluation products as well as the exchange of information via various networks. Since February 2016, the 'European Migrant Smuggling Centre' has existed within Europol to support Member States in combating smuggling, among other things by exchanging information and initiating bi- and multinational investigations (Europol 2020). In addition, Europol also supports cross-border cooperation in the fight against crime, for example through joint investigation teams from several Member States and Europe-wide action days (Deutscher Bundestag 2017d: 5).

9.2 National developments

Statistics – people obliged to leave the country

As in the previous years, the number of people obliged to leave the country increased again in 2019 (see table 9, Figure 11).

for Clandestine Employment, (German: Zoll – Finanzkontrolle Schwarzarbeit), the Federal Intelligence Service (German: Bundesnachrichtendienst, BND), the Federal Office for the Protection of the Constitution and the Federal Foreign Office.

¹⁵⁰ Website of #rumours about germany – facts for migrants: <https://rumoursaboutgermany.info/>. The website is available in Arabic, English, Farsi, French, Russian, Tigrinya and Urdu and is optimised for mobile use and social media (AA 2020d).

- Compared to the reference date of the previous year, on 31 December 2019, 5.9% more people in Germany were obliged to leave the country (2019: 249 922; 2018: 235 957; Deutscher Bundestag 2019ah: 67ff.; Deutscher Bundestag 2020f: 46).
- As of the reference date of 31 December, 12.4% more people with a temporary suspension of removal were living in Germany than in the previous year (2019: 81.0 %; 2018: 76.3%).
- 60.8% of those obliged to leave the country on the reference date were rejected asylum applicants (2018: 55.9%).
- 10.4% more people than in the previous year had a residence permit for well-integrated young persons and young adults on the reference date 31 December 2019 (Section 25a of the Residence Act; 2019: 6 489; 2018: 5,878).
- 28.9% more people lived with a residence permit as parents or minor children of these persons on the reference date (Section 25a subs. 2 of the Residence Act; 2019: 1 335; 2018: 1 036).
- 37.0% more people had a residence permit for permanent integration on the reporting date than in 2018 (Section 25b of the Residence Act; 2019: 1 574; 2018: 1 054; Deutscher Bundestag 2020m: 22f.)

Statistics – right of residence regulations

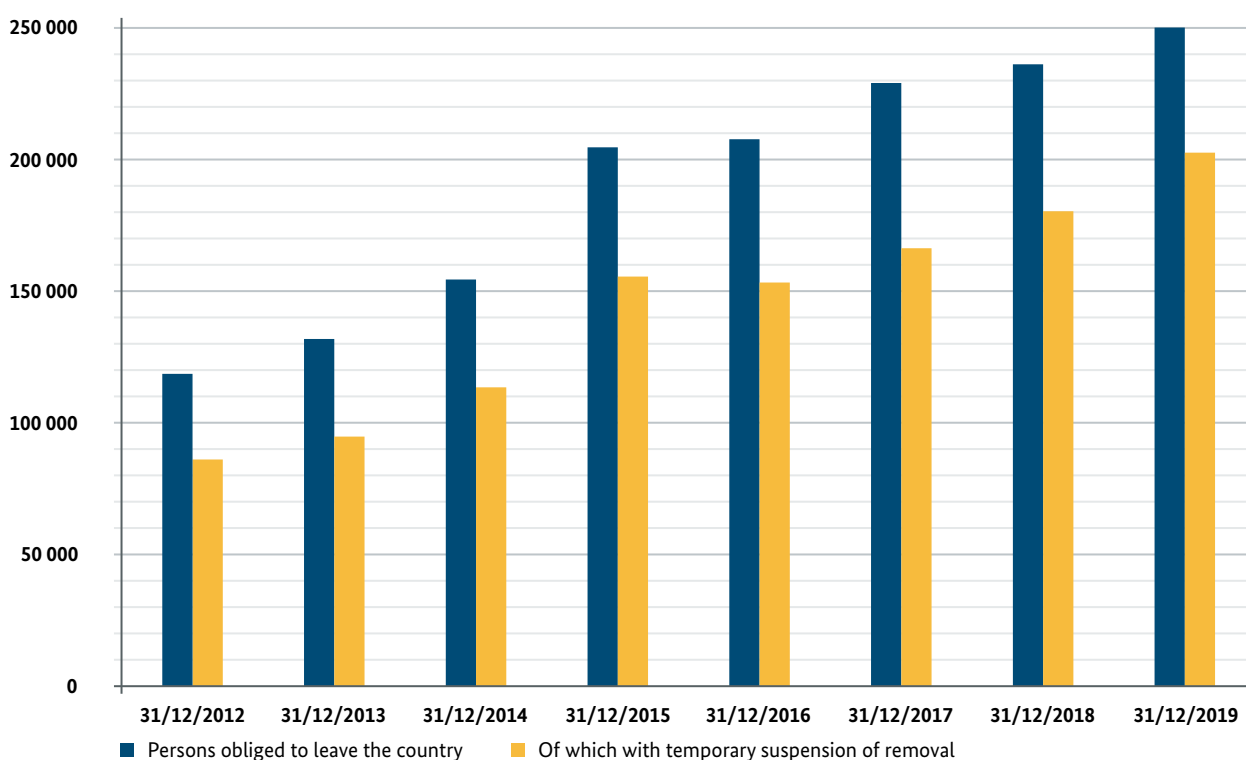
In 2019, the number of persons with a temporary suspension of removal who received a residence permit increased.

Table 9: Persons obliged to leave the country and persons with temporary suspension of removal on the respective reference date (2012–2019)

	31/12/2012	31/12/2013	31/12/2014	31/12/2015	31/12/2016	31/12/2017	31/12/2018	31/12/2019
Persons obliged to leave the country	118 347	131 598	154 191	204 414	207 484	228 859	235 957	249 922
Of which with temporary suspension of removal	85 344	94 508	113 221	155 308	153 047	166 068	180 124	202 387

Source: AZR.

Figure 11: Persons obliged to leave the country and persons with a temporary suspension of removal on the respective reference date (2012–2019)



Source: AZR.

10 Return

At a glance

- In 2019, the voluntary return of 13 053 persons was supported by the REAG/GARP programme – a decrease of 18% compared to the previous year (2018: 15,949).
- In addition, 22 097 removals, 2 934 removals following unauthorised entry and 13 689 refusals of entry were carried out.
- The basis for the uniform recording of voluntary return in future is provided by new data categories in the Central Register of Foreign Nationals, which were made possible by the ‘Second Data Sharing Improvement Act’ and are to be introduced in 2020.
- The ‘Second Act to Improve the Enforcement of the Obligation to Leave the Country’ introduced measures to facilitate the enforcement of returns. For example, the obligation to cooperate in the procurement of passport substitutes was enshrined more firmly in law and a further temporary suspension of removals category was created for persons with unclear identities. There were also changes to detention to prepare removal and custody to secure departure.

10.1 Background and general context

Return policy is a control instrument of migration policy. It aims to ensure that people who do not have a right of residence and are thus obliged to leave the country leave the federal territory or the Union territory. The obligation to leave the country can result, for example, from the rejection of an asylum application, but also from the expiry of a residence permit or the period of a lawful visa-free stay.

Return policy includes measures to promote voluntary¹⁵¹ return or onward migration¹⁵² and reintegration as well as measures for forced returns (removal following unauthorised entry and removal). Voluntary return fundamentally takes precedence over forced returns, as is laid down both in national law (e.g. Section 58 subs. 1 of the Residence Act) and in European law in the Return Directive (recital (10) of Directive 2008/115/EC). According to the provisions of European law, persons who are obliged to leave the country must therefore generally be granted a period of between seven and 30 days to leave voluntarily before they are forcibly returned. Both in the area of voluntary return and that of forced return, the responsibilities are divided between the Federal Government and the Länder. Forced return is regulated much more comprehensively under federal law than voluntary return (Grote 2015: 22). On the basis of Section 75 No. 7 of the Residence Act, the Federal Office for Migration and Refugees coordinates and supervises all federally funded programmes in the area of voluntary departure.

¹⁵¹ The term "voluntary return" is often criticised on the grounds that people who are obliged to leave the country usually have no legal alternative to departure and thus their return is, strictly speaking, not voluntary (SVR 2017: 7). From the state's perspective, the return is "voluntary", as no means of coercion are used and the affected persons are given a period of time to leave the country independently, instead of immediate enforcement of the obligation to leave (SVR 2017: 7). Since the term voluntary return has established itself in the discussion on residence law as a counterpart to return (removal), it is also used in this way in the present report.

¹⁵² Onward migration is only supported within the framework of voluntary return if the returning person is granted a minimum stay of one year by the third country.

Return

Obligation to leave the country Section 50 of the Residence Act

People who do not have the required residence permit have to leave Germany.



As a rule, a period of 7 to 30 days is set for departure.

In case of temporary suspension of removal, Sections 60a-60d of the Residence Act, the removal is temporarily suspended.

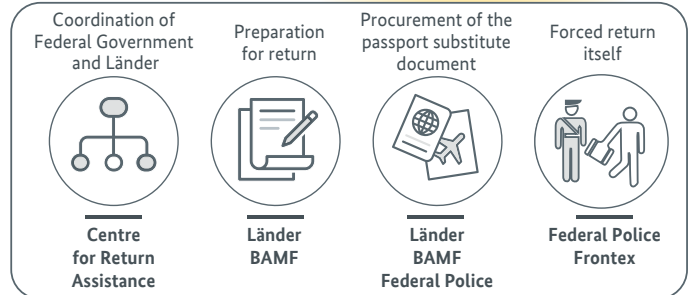
Return counselling

Neutral and individual return counselling at non-state (e.g. welfare associations and NGOs) and state counselling centres (e.g. Federal Office for Migration and Refugees, social welfare and foreigners authorities).



Voluntary return

Voluntary return has priority over forced return. People decide to return to their country of origin or a third country for personal reasons or because they are obliged to leave the country.



Forced return

If people do not voluntarily comply with the obligation to leave the country, the competent authorities have coercive means at their disposal. A temporary ban on entry and residence of up to five years is imposed on people who are removed following unauthorised entry or removal. In certain cases, longer bans are imposed.



Independent return
Independently financed

Assisted return
Within the framework of return programmes



Detention to prepare removal Section 62 of the Residence Act

Detention to prepare removal is possible as a last option (e.g. if there is a risk of absconding or impeding return).

Custody to secure departure Section 62b of the Residence Act

Ensuring the enforceability of the removal

Removal Section 58 of the Residence Act

Implementation of the obligation to leave the country with enforcement



Return programmes

The REAG/GARP programme of the Federal Government and the Länder in cooperation with IOM as well as various Länder programmes



Reintegration programmes



StarthilfePlus
Reintegration support within the framework of REAG/GARP in over 40 destination countries

Implementation: IOM

ERRIN
European programme in about 30 destination countries after voluntary departure or also expulsion

Implementation: Frontex

Perspektive Heimat / Startfinder
Counselling centres for jobs, migration and reintegration

Responsibility: **Federal Ministry for Economic Cooperation and Development / GIZ**

Further programmes in individual Länder and municipalities

www.returningfromgermany.de

Information box: Return

The term **return** is often used synonymously with that of removal, but it is not exactly the same. It is often used to distinguish voluntary or independent departure from return measures that are enforced (e.g. removals, Dublin transfers, refusals of entry). Other actors, however, also classify voluntary or assisted departures as return (Rietig/Günnewig 2020). The term is primarily used in EU law (Art. 3 subs. 3, see also SVR 2017: 10).

Removal (Section 58 of the Residence Act) is the enforcement of the obligation to leave the country by means of coercion. In particular, it presupposes that the obligation to leave the country is enforceable and that voluntary departure has not occurred within the period granted or that monitoring of departure is deemed necessary.

Removal following unauthorised entry (Section 57 of the Residence Act) is the immediate termination of residence of a person who entered the country irregularly and was apprehended in the border area (SVR 2017: 10). Removal following unauthorised entry may only be effected if no asylum application has been filed and there are no removal bans. If the unauthorised entry was from a Member State of the European Union, the person concerned is to be returned there. In contrast to removal, removal following unauthorised entry does not require a warning or the setting of a deadline (Hailbronner 2017: 359), moreover, appeals do not usually have a suspensive effect.

Refusal of entry (Section 15 of the Residence Act) is the refusal of entry at the border and thus not a measure that terminates residence, but a measure that prevents residence. People may be refused entry at the border if they enter illegally or do not fulfil the conditions for entry.

Expulsion (Section 5356 of the Residence Act) on the other hand, is not an actual process, but an administrative act which ends the lawfulness of a stay and creates the obligation to leave the country. Expulsion is imposed on foreign nationals who pose a threat to the order and security or the interests of the Federal Republic.

The **removal order** (Section 58a of the Residence Act) includes both the extradition and the enforcement order and at the same time justifies the order of detention to prepare removal, if the removal cannot be executed immediately (Section 62 subs. 3 No. 1a of the Residence Act). It is a regulation of an exceptional nature for particularly dangerous situations, which enables the supreme Land authorities or the Federal Ministry of the Interior to remove a foreigner “in order to avert a special threat to the security of the Federal Republic of Germany or a terrorist threat” (Section 58a subs. 1 first sentence of the Residence Act).

Return counselling

As part of the general asylum procedure counselling provided by the Federal Office for Migration and Refugees, asylum seekers receive general and neutral return advice before filing their application (for the asylum procedure counselling see Chapter 4.1.2.2). As a next step, standardised return information is provided in an interview at all Federal Office for Migration and Refugees locations during the asylum application process. For individual return counselling, applicants are referred to the return counselling services of the Länder. Individual return counselling includes, among other things, detailed perspective counselling, advice on the return and reintegration programmes, submission of the corresponding funding applications and support in organising the departure.

State agencies, such as the Federal Office for Migration and Refugees, foreigners or social welfare authorities and/or non-governmental agencies, such as welfare associations and NGOs, provide return counselling on behalf of the Länder.¹⁵³ Most Länder offer counselling on voluntary return in arrival and AnKER-centres, initial reception facilities or at the foreigners authorities. In addition, the Federal Office for Migration and Refugees provides initial information on voluntary departure as well as on return and reintegration programmes in German and English via a nationwide return hotline under the central telephone number of the Service Centre of the Federal Office for Migration and Refugees¹⁵⁴. Information on the return and

¹⁵³ An overview of the counselling services and support programmes can be found on the website www.returningfromgermany.de.

¹⁵⁴ Telephone number of the Federal Office for Migration and Refugees

reintegration programmes is also available to counselling centres and people interested in returning on the multi-lingual return portal www.returningfromgermany.de.

Independent and assisted return

The Return Assistance Programme REAG of the Federal Government and the Länder, which has existed since 1979 – and supplemented since 1989 by GARP¹⁵⁵, – is Germany's most important return assistance programme in terms of numbers. The REAG/GARP programme, which is implemented by the IOM on behalf of the Federal Government and the Länder, offers returnees without resources not only payment of travel costs and travel allowances (REAG) but, depending on their nationality, also start-up assistance for reintegration (GARP). Since 1 February 2017, in addition to the REAG/GARP programme, it has also been possible to receive financial support through the 'StarthilfePlus' programme' which is funded by the Federal Government. In addition, a multitude of transnational, European, federal, Land and municipal projects exist that aim to promote return and reintegration and also provide services alongside and beyond REAG/GARP (for an overview of the actors: Grote 2015; and SVR 2017).

Forced return

Alongside assisted return measures, the competent authorities have coercive means at their disposal to implement an enforceable obligation to leave the country: the removal following unauthorised entry and removal (for an explanation of the terms see Figure 12). The obligation to leave the country is enforceable if the deadline for departure has passed and no further legal remedies with suspensive effect can be lodged. If persons are removed or expelled, this also entails a ban on entry and residence in accordance with Section 11 of the Residence Act.

A removal warning is always to be issued (Section 59 subs. 1 first sentence of the Residence Act). If an asylum application is rejected, the Federal Office for Migration and Refugees issues the removal warning together with the decision. In the event that a transfer is to be made to a safe third country¹⁵⁶ or to a country responsible

for processing the asylum procedure (Dublin procedure), the Federal Office for Migration and Refugees also orders the removal to that country as soon as it has been ascertained that the removal can be carried out (Section 34a subs. 1 first sentence of the Asylum Act). If the obligation to leave the country arises due to the expiry of the validity of a residence permit or due to its revocation or loss, the respective foreigners authority is responsible for the removal warning (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). If persons are removed or expelled, a ban on entry and residence is to be issued in accordance with Section 11 subs. 1 first sentence of the Residence Act.

In order to facilitate and accelerate return measures, the Federal Government has concluded re-admission agreements with a total of 31 states (as of: February 2020)¹⁵⁷ or signed other, non-binding declarations specifying the obligation to readmit their own nationals. In addition to the Federal Republic of Germany, the EU has also concluded re-admission agreements with numerous third countries (Deutscher Bundestag 2020o: 3). Here, as an incentive for closer cooperation by third countries on readmission issues, the EU offers the prospect of additional financial support in other areas (KOM 2017b: 14f.).

Reintegration

In addition to return assistance, reintegration support is an integral part of the return process. Reintegration support is aimed at enabling stabilisation in the country of origin and countering direct re-migration. For this purpose, the Federal Office for Migration and Refugees carries out various reintegration measures that take effect immediately after return and offer orientation and assistance in the first six to twelve months after return.

The reintegration project 'URA' Kosovo financed by the Federal Government and nine Länder, has provided returnees in Kosovo with comprehensive initial support and orientation for over ten years and serves as a model for other reintegration measures, such as StarthilfePlus.

Service Centre: 0911/9430. Staffed from Monday to Friday (between 9:00 a.m. and 3:00 p.m.).

155 REAG: Reintegration and Emigration Program for Asylum-Seekers in Germany; GARP: Government Assisted Repatriation Program; cf. in detail on REAG/GARP, but also on other transnational, federal, Land and municipal return programmes: Grote 2015.

156 The Member States of the European Communities as well as Norway and Switzerland, in which compliance with the Geneva Refugee Convention and the Human Rights Convention is ensured, are considered 'safe third countries'. Anyone entering

Germany from a 'safe third country' can no longer invoke the basic right to asylum (Section 26a of the Asylum Procedure Act (German: Asylverfahrensgesetz, AsylVfG).

157 A list of Germany's bilateral re-admission agreements, the 'Agreements to facilitate the departure of foreigners who are obliged to leave the country' (German: Abkommen zur Erleichterung ausreisepflichtiger Ausländer) (valid: February 2020) is published on the website of the Federal Ministry of the Interior https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/migration/rueckkehrfluechtlinge.pdf?__blob=publication-File&v=3 (15.06.2020).

Through the StarthilfePlus programme, since 1 February 2017, REAG/GARP support can be supplemented by financial support or reintegration support in the form of benefits in kind in what is now over 40 countries (IOM/BAMF 2020). The European Return and Reintegration Network (ERRIN) is a European return and reintegration programme with the participation of 13 EU Member States and two Schengen States, led by the Netherlands, which Germany also participates in. REAG/GARP support also includes a reintegration component. In addition, there are further (national) return programmes of individual Länder and municipalities.

10.2 National developments

10.2.1 Assisted return and reintegration

Statistics

In 2019, fewer people departed in the framework of the REAG/GARP return support than in 2018, after departures had already declined considerably in previous years (see Figure 13). However, the number of departures supported under REAG/GARP was particularly high in 2016, also in comparison to the number of removals (Figure 13). The reason for this is that the actual number of voluntary departures reflects migration events with a delayed effect. Until 2016, for example, Germany registered rapidly increasing return migration, which can be attributed to the high immigration figures in the previous years. In this context, the proportion of nationals from the Western Balkan states, who made up the majority of returnees from Germany in previous years, should also be noted. Since 2016, significantly fewer nationals have entered Germany from these countries, so the number of returnees to these countries has also fallen since then. While REAG/GARP departures are recorded centrally for statistical purposes, there is no complete information on the number of assisted departures with programmes of the Länder and municipalities (Hoffmeyer-Zlotnik 2017: 27f.). The 'Second Data Sharing Improvement Act' created the foundation for uniform recording (see below).

- The proportion of people who left voluntarily through the REAG/GARP programme decreased by 18.1% (2019: 13 053; 2018: 15 941; IOM Germany).
- Of these, 7 247 people received additional support through the federal programme 'StarthilfePlus'¹⁵⁸

¹⁵⁸ These awards are included in the total number of awards through the REAG/GARP programme, as REAG support is a

(2018: 5 184). The increase can be explained, among other things, by the changed programme benefits and the expansion of the group of persons eligible (Deutscher Bundestag 2020f).

- Of the people who left via REAG/GARP, 37.8% were female and 31.6% were under the age of 19. 52 unaccompanied minors also left the country voluntarily with the support (IOM Germany).
- After the ratio of assisted voluntary returns via the REAG/GARP programme to removals reversed in the previous year for the first time since 2013, this trend further increased in 2019 (2019: 69.2% more removals than voluntary departures; 2018: 48.2%).
- Most people who left voluntarily in the framework of REAG/GARP were of Iraqi, Georgian or Northern Macedonian nationality (see table 10);
- In the context of the 'URA' Kosovo programme, 490 people were registered and given initial counselling, and 855 people received financial support (2018: 1 294 persons registered and given initial counselling; 1 983 persons received financial support).

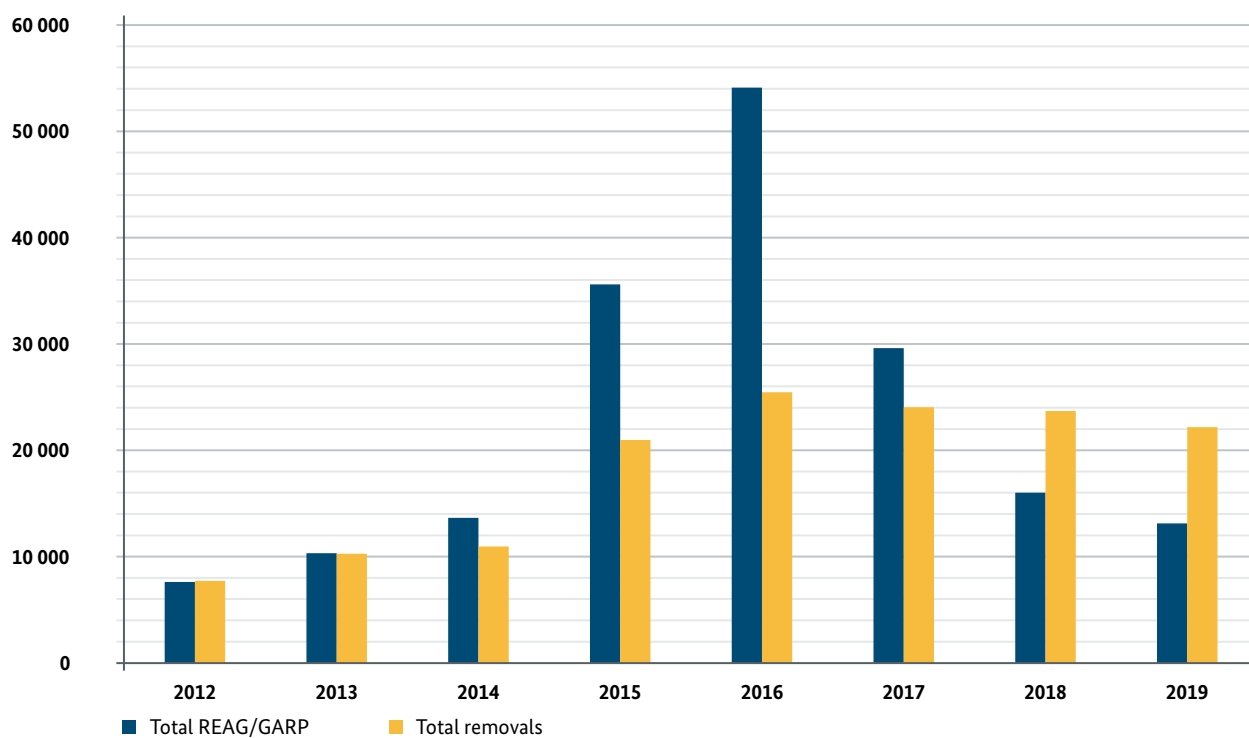
Second Data Sharing Improvement Act

The basis for the uniform recording of voluntary return in future is provided by new data categories in the Central Register of Foreign Nationals, which were made possible by the 'Second Data Sharing Improvement Act', which came into force on 9 August 2019, and are to be introduced from May 2020 onwards (see also Chapter 10.2.2; Deutscher Bundestag 2020f: 42). Among other things, the coordination of support measures for voluntary return is to be improved (BMI 2019j). In future, therefore, in accordance with the new regulation of Section 86a of the Residence Act, personal data¹⁵⁹ as well as information on the scope of funding and the grounds are to be collected by the foreigners authorities and all other public or private bodies which carry out publicly funded return and reintegration measures themselves or on behalf of the public authorities or receive the application required for this purpose (Section 86a subs. 1 of the Residence Act). In this way, the utilisation of the various programmes is to be recorded centrally, among other things to improve the implementation and coordination of the support measures and to trace unjustified utilisation, where applicable (Deutscher Bundestag 2019ai: 6). Some of the personal data will be recorded

prerequisite for support through 'StarthilfePlus' (IOM 2017). The 'StartupPlus' figures for 2019 are provisional.

¹⁵⁹ 1. surname, name at birth, given names, spelling of the names according to German law, marital status, date of birth, place and district of birth, sex, nationalities, 2. information regarding the country of destination, 3. information regarding the type of funding, and 4. information about whether the person left voluntarily or whether he or she was removed (Section 86a subs. 1 of the Residence Act).

Figure 12: REAG/GARP departures and removals (2012–2019)



Source: IOM Deutschland; Deutscher Bundestag 2020f: 39.

Table 10: REAG/GARP assisted return by most common nationalities (2018–2019)

	REAG/GARP 2019		REAG/GARP 2018	
	Nationality	Total	Nationality	Total
1	Iraq	1 555	Iraq	1 802
2	Georgia	1 067	Albania	1 557
3	North Macedonia	988	Russia	1 381
4	Russia	946	North Macedonia	1 239
5	Armenia	842	Serbia	1 144
6	Albania	838	Georgia	1 058
7	Serbia	799	Moldova	733
8	Moldova	683	Ukraine	719
9	Ukraine	680	Armenia	699
10	Iran	551	Azerbaijan	689
11	Azerbaijan	461	Iran	498
12	Afghanistan	325	Kosovo	477
13	Pakistan	324	Afghanistan	403
14	Turkey	269	India	332
15	India	238	Pakistan	320
	other nationalities	2 287	other nationalities	2 890
	Total	13 053	Total	15 941

Source: IOM Deutschland.

in the Central Register of Foreign Nationals using the new data categories mentioned at the beginning – this does not include information on the scope of and grounds for the support, which remains with the agencies that collected the data.

New support options with REAG/GARP

In 2019, the support programmes for voluntary return and reintegration REAG/GARP and StarthilfePlus were restructured and simplified. Furthermore, the financial start-up assistance of 1 000 euros was extended to other countries of origin, including Afghanistan, Iraq and Nigeria. In 2019, the additional StarthilfePlus components ‘Your country. Your Future. Now’ (German: Dein Land. Deine Zukunft. Jetzt), which were available in the programme for a limited period in 2017 and again in 2018, will be included in the regular support for selected target countries (Armenia, Azerbaijan, Georgia, Iran, Lebanon, Tajikistan and Turkey). Thus, returnees can receive financial support for their accommodation costs for up to twelve months. In addition, the one-off payment of 1 000 euros as a ‘second start-up assistance’, which is paid out after six to eight months after leaving the country, was continued in other countries. Likewise, people from Albania, Bosnia and Herzegovina, Northern Macedonia, Moldova, Montenegro and Serbia who have had a temporary suspension of removal in Germany for at least two years can receive additional specific reintegration support (one-off financial support as well as benefits in kind in the area of accommodation and medical costs) (BAMF 2019k).

Since 24 June 2019, the agencies responsible for submitting applications have had the option to file applications digitally for the REAG/GARP and StarthilfePlus programmes within the framework of an online application module (German: Online-Antragsmodul, OAM). This is intended to speed up the application process, simplify communication between the IOM and the agencies responsible for submitting applications, reduce the number of incorrect applications and improve the protection of private data. By the end of 2019, about half of the agencies responsible for submitting applications in Germany had registered in the online application module.

Return counselling

In 2019, the counselling service options for third-country nationals from the countries of origin Armenia, Bangladesh, Ethiopia, Ghana, Guinea, Iraq, Nigeria, Gambia and Pakistan who are interested in returning were expanded by the ‘ZIRF Counselling 2019 – Virtual Return and Reintegration Counselling’ (German: ZIRF Counselling 2019 – Virtuelle Rückkehr- und

Reintegrationsberatung) carried out by the IOM. The content of the project is the virtual counselling of the target group by IOM staff in the respective countries of origin. In the counselling sessions, interested persons are provided with information in their native language about the situation in the countries of origin and given detailed explanations of the support services provided by the Federal Government. The counselling is carried out via various communication technologies (WhatsApp, Skype, Viber, Facebook) and online messengers.¹⁶⁰ Most Länder offer counselling on voluntary return in arrival and AnkER facilities, initial reception facilities or at the foreigners authorities. In this context, the Federal Office for Migration and Refugees has provided return counselling at the AnkER facility in Dresden and the functionally equivalent facilities in Chemnitz and Leipzig on behalf of the Free State of Saxony since 1 January 2019. Since 1 September 2019, return counselling has also been provided by the Federal Office for Migration and Refugees at the AnkER facility in Lebach on behalf of the Saarland.

Evaluation of the federal programme ‘StarthilfePlus’

In November 2019, the first study of the accompanying research project on the reintegration programme ‘StarthilfePlus’, which is carried out by the Federal Office for Migration and Refugees Research Centre and the IOM, was presented. In the framework of the study, returnees¹⁶¹ who left Germany between the start of the programme in February 2017 and April 2018 were asked how they perceived the programme and about the importance of the support services for their return decision and reintegration. More than 80% of respondents said they were satisfied with the support received. The study shows that returnees usually have several motives for their decision to return. The ‘lack of prospects of staying’ in Germany is cited as the most important motive. In addition, closeness to the family in the country of origin plays a role. For most of the participants in the study, the programme information and counselling are just as relevant and important as the financial support. The study shows that financial support is very rarely the only factor which determines the basic willingness to return, and that it primarily plays a role in cases where people are already considering returning for other reasons, but have not yet made a decision (Schmitt/Bitterwolf/Baraulina 2019).

¹⁶⁰ More detailed information on virtual counselling can be found under the following link: <https://www.returningfromgermany.de/de/page/?slug=v-counselling>

¹⁶¹ The statements of 1 339 people who received support in a total of eleven countries (including Iraq, Afghanistan and Iran) were assessed.

10.2.1.1 Developments related to the EU

European Return and Reintegration Network (ERRIN)

Since June 2018, the European Return and Reintegration Network (ERRIN) has replaced the previous European Reintegration Network (ERIN). This is a European return and reintegration programme with 15 participating EU Member States and Schengen States¹⁶², led by the Netherlands, which Germany participates in and which is largely financed by the Asylum, Migration and Integration Fund (ICMPD 2020). In its current form, the ERRIN programme will run until 30 June 2022 and will then be taken over in part by Frontex as of 1 July 2022.

The following reintegration assistance can be funded through the programme:

- Counselling after arrival
- Vocational qualification measures, help in finding a job
- Support for business start-ups
- Basic furnishings for accommodation
- Advice and accompaniment to official, medical and charitable bodies (BAMF/IOM 2019).

In 2019 support was offered for returnees from Germany in 14 countries of destination: Armenia, Afghanistan, Bangladesh, Ethiopia, Gambia, Ghana, India, Iraq, Morocco, Nigeria, Pakistan, Russian Federation, Sri Lanka, Ukraine. From January 2020, the ERRIN return support will also be opened up to other countries: Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Democratic Republic of the Congo, Guinea Conakry¹⁶³, Kazakhstan, Kyrgyzstan, Mali, Mongolia, Niger, Rwanda, Senegal¹⁶⁴, Somalia, Somaliland, Tajikistan and Togo (BAMF 2020h).

¹⁶² Belgium, Denmark, Germany, Finland, France, Greece, Luxembourg, Malta, the Netherlands, Norway, Austria, Sweden, Switzerland, Spain and the United Kingdom.

¹⁶³ Only voluntary return.

¹⁶⁴ Only voluntary return.

In the context of the 'ERIN Action Plan 2016', two new funding components (duration 1 August 2019 to 31 December 2020) were launched in 2019 as supplementary reintegration assistance to the ERRIN programme: 'Business Start-up Plus' and 'Training and occupation for women' (German: Ausbildung und Beruf für Frauen). The assistance can be granted in addition to regular support and can be applied for by persons willing to return to the destination countries Afghanistan, Ethiopia, Gambia, Ghana, Iraq, Nigeria, Pakistan and the Russian Federation (BAMF 2020h).

10.2.2 Forced return

10.2.2.1 Forced return statistics

Compared to the previous year, slightly fewer removals were carried out in Germany in 2019, but more removals following unauthorised entry and more refusals of entry (see table 11 and Figure 14).

- 6.4% less people were removed than in the previous year (2019: 22 097; 2018: 23 617). At the same time, 17.5% more people were removed following unauthorised entry and 13.3% more people were refused entry. The figures on removals and removals following unauthorised entry also include 8 423 transfers as part of the Dublin procedure (BAMF 2020c: 44; Deutscher Bundestag 2019ah, Deutscher Bundestag 2020f; for Dublin transfers see Chapter 4.1.2.1).
- The five most common nationalities of the people removed were Albania, Nigeria, Georgia, the Russian Federation and Serbia (see table 12).
- 22.5% of the people removed were female and 17.2% were minors (Deutscher Bundestag 2020f: 8f.).
- A total of 1 625 people were removed in collective forced return operations by the EU in joint activities (Deutscher Bundestag 2020f: 20).
- Most removals were carried out by the Land North Rhine-Westphalia (see table 13).

Table 11: Completed removals, removals following unauthorised entry and refusals of entry (2012–2019)

	2012	2013	2014	2015	2016	2017	2018	2019
Removals	7 651	10 198	10 884	20 888	25 375	23 966	23 617	22 097
Removals following unauthorised entry	4 417	4 498	2 967	1 481	1 279	1 707	2 497	2 934
Refusals of entry	3 829	3 856	3 612	8 913	20 851	12 370	12 079	13 689

Source: Deutscher Bundestag 2013, 2014, 2015b, 2016d, 2017e, 2018g, 2019ad, 2020f.

- 28 944 removals (of which at least 16 854 were Dublin transfers¹⁶⁵) failed before the transfer to the Federal Police. Of these, 17 399 failed due to cancellation of the transfer request, 11 007 due to failure to transport, 524 due to other reasons, and 14 due to late transport (Deutscher Bundestag 2020f: 36f.).

¹⁶⁵ The figures on Dublin transfers are only recorded by the Federal Police in cases where the removal has been designated as a Dublin case by the competent authority. The statistics of the Federal Police on Dublin transfers have not been compared with those of the Federal Office for Migration and Refugees, which can lead to discrepancies in statistics (Deutscher Bundestag 2020f: 36).

10.2.2.2 Legal changes in the area of forced return

Second Act to Improve the Enforcement of the Obligation to Leave the Country ('Orderly Return Act')

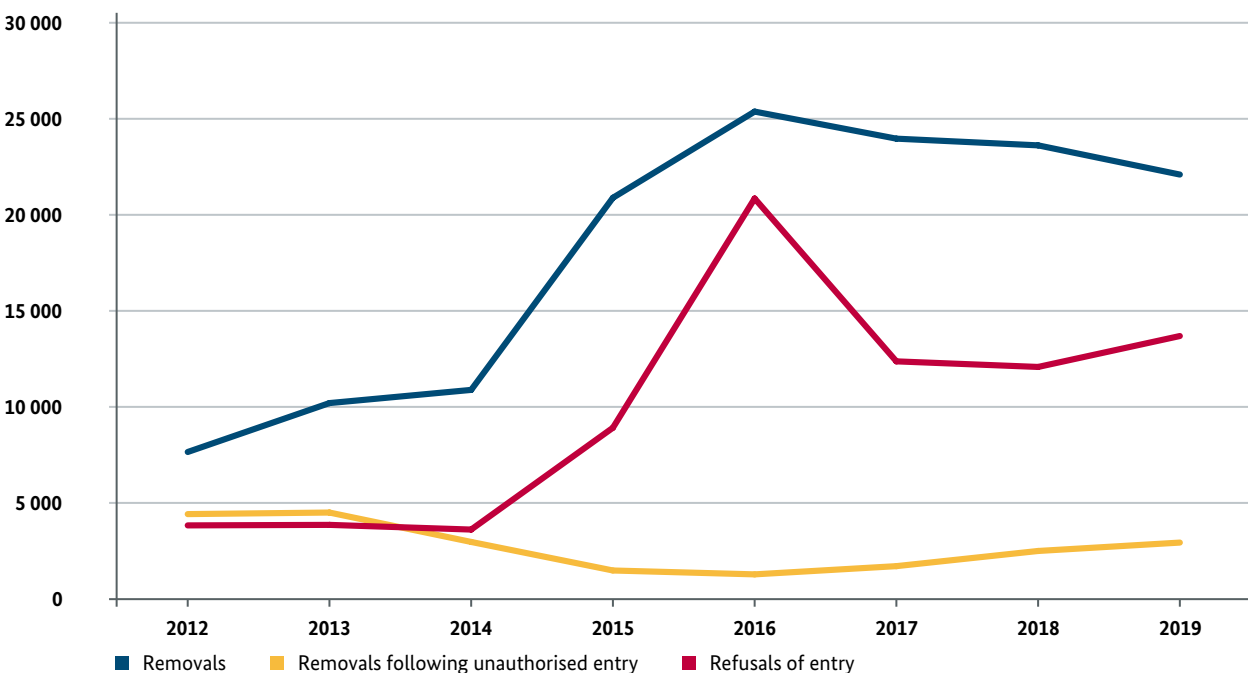
On 21 August 2019, the 'Second Act to Improve the Enforcement of the Obligation to Leave the Country' entered into force. It was passed by the Bundestag as part of the so-called migration package on 7 June 2019 (see also Chapter 2.2, 4.1.2.2). It implements the provisions of the coalition agreement between the CDU, CSU and SPD and the objectives of the 'Migration

Table 12: Number of removals in 2019 by most common nationality

Nationality	Number of persons
Albania	1 604
Nigeria	1 432
Georgia	1 242
Russian Federation	1 152
Serbia	1 038
Afghanistan	931
Iraq	862
Pakistan	833
Morocco	808
Kosovo	758

Source: Deutscher Bundestag 2020f: 5.

Figure 13: Removals, removals following unauthorised entry and refusals of entry (2012–2019)



Source: Deutscher Bundestag 2013, 2014, 2015b, 2016d, 2017e, 2018g, 2019ad, 2020f.

Table 13: Removals carried out in 2019 according to the Länder responsible

Removals	
	Number of persons
Baden-Wuerttemberg	2 629
Bavaria	3 545
Berlin	995
Brandenburg	326
Bremen	93
Hamburg	456
Hesse	1 600
Mecklenburg-Western Pomerania	324
Lower Saxony	1 122
North Rhine-Westphalia	6 359
Rhineland-Palatinate	1 267
Saarland	195
Saxony	1 172
Saxony-Anhalt	557
Schleswig-Holstein	457
Thuringia	462
Federal Police	538

Source: Deutscher Bundestag 2020f: 19.

Masterplan'. The law introduced measures to facilitate the enforcement of returns. Since the lack of valid travel documents is a frequent reason why the obligation to leave the country cannot be enforced, the law more clearly defines the duty of people obliged to leave the country to cooperate when it comes to procuring travel documents (BMI 2019q). Since people obliged to leave the country do not always comply with their obligation to procure travel documents, the law also creates a new temporary suspension of removal category "for persons whose identity is not verified" (Section 60b of the Residence Act). A distinction is thus made between people who are not responsible for the obstacle to their departure and those who are. In the latter case, several sanction measures are also introduced:

- Prohibition on taking up gainful employment
- The foreigners authority may impose a residence requirement
- The period of holding a temporary suspension of removal in accordance with Section 60b of the Residence Act is not counted towards the period of time necessary of holding a temporary suspension of removal for a person to be eligible for a

suspension of removal for persons in vocational training or employment (German: Vorduldungszeiten)

- The violation of the duty to obtain a passport is an administrative offence (fine of up to 5 000 euros).

In addition, the law introduces several changes regarding detention to prepare removal.

- Detention to secure removal (Section 62 subs. 3 of the Residence Act): Lowering of the material and formal requirements for detention to secure removal to prevent the person obliged to leave the country from absconding and reduction of the administrative burden on the foreigners authorities by simplifying the application for custody.
- Detention to prepare removal (Section 62 subs. 2 first sentence of the Residence Act): Extension of the detention to prepare removal to include people who pose a particular threat to the security of the Federal Republic of Germany or a terrorist threat (so-called Gefährder), so as to enable immediate detention if, for example, a decision cannot be made immediately on the removal order in accordance with Section 58a of the Residence Act.

- Detention to enforce cooperation (Section 62 subs. 6 of the Residence Act): Creation of a new ground for detention to ensure the appearance of people obliged to leave the country at hearings in the country of origin to establish their identity.
- Detention to secure departure (Section 62b of the Residence Act): Detention judges had often interpreted the old regulation as meaning that there had to be a risk of absconding for detention to secure departure. Since, according to the Federal Ministry of the Interior, Building and Community, this “is contrary to the will of the legislator” and “hinders” practice, the newly regulated conditions for detention to secure departure now refer to “risk of absconding or criteria similar to absconding” (BMI 2019q).
- Separation requirement of detainees awaiting removal and prisoners serving sentences for criminal offences (Section 62a subs. 1 of the Residence Act): Temporary suspension of the separation requirement under European law until 30 June 2022.¹⁶⁶ This measure was justified on the grounds that there was a shortage of places in detention and that it should also be possible to carry out detention in prisons for the planned period, provided that detainees awaiting removal and prisoners serving sentences are accommodated separately (Deutscher Bundestag 2019aj: 3).

It is still the case that minors and families with minors may only be detained in exceptional cases and only for as long as is reasonable having due regard to the best interests of the child. As a rule, detention of minors is disproportionate. In addition to these changes, the Residence Act now stipulates a centralisation of the responsibility for enforcing removals in the Länder (Section 71 subs. 1 fourth sentence of the Residence Act). According to the explanatory reasoning, the objective behind this is “efficient, centralised” implementation of removals as well as the creation of uniform contact points for the federal and other Land authorities (Deutscher Bundestag 2019as: 46). To this end, all the Länder had already set up such central offices either before the law was amended or subsequently, before the end of 2019 (Deutscher Bundestag 2020q: 4).

The law also introduces new measures for the extradition of offenders by reducing the protection against extradition for these persons to the minimum required by European and international law (BMI 2019q). In addition, monitoring options were introduced for serious offenders for whom the obligation to leave the

country cannot be enforced (spatial restriction, reporting obligations, communication restrictions; Section 56 subs. 3 No. 2 of the Residence Act). Furthermore, the possibility of an unlimited entry and residence ban was introduced for this group of persons (Section 11 subs. 5b second sentence of the Residence Act).

In addition, “as the more subject-related [federal] authority”, the Federal Office for Migration and Refugees now takes on the passport substitute procurement by way of administrative assistance in order to support the Land authorities originally responsible and to make return enforcement more effective (Section 75 No. 13 of the Residence Act; Deutscher Bundestag 2019aj: 1). In individual cases, the Federal Police continues to take on the procurement of return travel documents by way of administrative assistance (Section 71 subs. 3 No. 7 of the Residence Act).

The ‘Second Act to Improve the Enforcement of the Obligation to Leave the Country’ was sharply criticised by opposition parties and several Länder as well as non-governmental organisations. On the one hand, the suspension of the separation requirement of detainees awaiting removal and prisoners was questioned with regard to the provisions of European law (Dienelt 2019). In addition, the CDU Land ministers from Baden-Wuerttemberg, Hesse, Lower Saxony, North Rhine-Westphalia, Mecklenburg-Western Pomerania, Saarland, Saxony, Saxony-Anhalt and Schleswig-Holstein told the leader of the CDU/CSU parliamentary group, Ralph Brinkhaus, that the legal regulation to also accommodate persons obliged to leave the country in normal prisons was “completely impractical” due to the fact that the prisons are usually full to capacity (Koch 2019). Furthermore, it was questioned whether more places in detention “actually led to more removals”, as France and Italy, for example, had more places in detention for migration-related cases available in 2018, but fewer people had been removed than in Germany (Rietig/Günnewig 2020: 33). The Federal Ministry of the Interior, Building and Community, on the other hand, emphasised that the suspension of the separation requirement was a temporary solution due to the low number of places in detention to prepare removal. Also, the accommodation should be arranged in such a way that detainees awaiting removal and prisoners cannot meet (Koch 2019). As of 27 March 2019, there was a capacity of around 490 places in detention to prepare removal, which was disproportionate to the number of people enforceably obliged to leave the country, which is why, according to the explanatory reasoning, up to 500 detention places were to be made available temporarily in normal prisons. The overloading of the detention centres to prepare removal is seen as a major bottleneck in the

¹⁶⁶ The possibility is provided for in European law in Art. 18 of the Return Directive (Directive 2008/115/EC).

implementation of the enforceable obligation to leave the country (Deutscher Bundestag 2019as: 44).

Second Data Sharing Improvement Act

The ‘Second Data Sharing Improvement Act’ which was also adopted as part of the migration package and the main parts of which came into force on 9 August 2019 (see also Chapter 2.2, 4.1.2.2, 5.1.2), introduced, among other things “Measures to better control [...] return” (Deutscher Bundestag 2019ai: 3). Until now, additional data such as fingerprint data, height, eye colour and the address of asylum seekers, unauthorised entrants or unauthorised residents were stored in the Central Register of Foreign Nationals. The new regulation expands this group of people to include people who are obliged to leave the country and for whom removal following unauthorised entry or removal is possible (BMI 2019j).

10.2.2.3 Further developments in the area of forced return

Removal ban Syria

According to Section 60a subs. 1 of the Residence Act, a temporary and complete suspension of removal to certain countries of origin can be ordered, as has been the case for Syria, for example, since 30 March 2012 (MBL NRW 2019 No. 17 p. 363). At the 211th meeting of the Senators of the Interior of the Länder on 4 December 2019, the Federal Government, with the participation of the Federal Ministry of the Interior, Building and Community and the Länder, was called upon to develop recommendations for action to ease the removal ban. This is intended to create the conditions for the forced return of people who pose a particular threat, among others, to Syria “in compliance with human rights and taking a differentiated view of individual cases” (Senators of the Interior of the Länder 2019: 26).

No general ban on removal to Somalia

On 17 July 2019, the Higher Administrative Court of Baden-Württemberg ruled that “according to the current state of knowledge [...] there is no such precarious humanitarian situation in Somalia and in particular no such insufficient general supply situation that a forced return to that country [...] would be generally excluded through the application of a national removal ban” (VGH Baden-Württemberg 2019). The administrative court in Stuttgart had previously forbidden the removal of a Somali, as returnees to Somalia “would be exposed to danger to life and limb due to the food shortage prevailing there” (Stuttgarter Nachrichten 2019). The

Higher Administrative Court substantiated its decision by stating that the supply situation in Somalia had improved due to the rainfall during the rainy season. An appeal was not admitted, but a complaint can be lodged with the Federal Administrative Court (VGH Baden-Württemberg 2019).

Arrival, decision-making and return facilities (AnKER facilities)

After the first ‘arrival, decision-making and return facilities’, so-called ‘AnKER facilities’, were opened in Bavaria, Saxony and Saarland in 2018, three more Länder, Mecklenburg-Western Pomerania, Schleswig-Holstein and Brandenburg, implemented the concept of AnKER in 2019 (see Chapter 4.1.2.3).

10.2.2.4 Developments related to the EU

Refusal of entry agreements with Spain, Greece and Italy

In the summer of 2018, the Federal Government negotiated refusal of entry agreements with Spain and Greece. The refusal of entry agreements concluded provide that asylum seekers apprehended at the German-Austrian border are immediately returned to the respective country within 48 hours if they have filed an asylum application there. The determination is effected via the Eurodac database. Unaccompanied minors are excluded from the agreements.¹⁶⁷

A total of 29 persons were refused entry from Greece and two persons from Spain (reference date 14 August 2019). Since then, several legal actions have been brought against the refusals of entry. So far, there are two different preliminary decisions from the Munich Administrative Court (Munich Administrative Court ruling of 9 May 2019¹⁶⁸ and ruling of 8 August 2019¹⁶⁹). The decision on the merits was still pending in both proceedings in 2019 (Deutscher Bundestag 2019ak: 5ff.)

¹⁶⁷ Greece demands counter-performance for the agreement: by the end of 2018, open old cases for family reunification are to be assessed.

¹⁶⁸ Munich Administrative Court, ruling of 9 May 2019 – M 5 E 19.50027.

¹⁶⁹ Munich Administrative Court, ruling of 8 August 2019 – M 18 E 19.322238.

11 Trafficking in human beings

At a glance

- The expert group GRETA ('Group of Experts on Action against Trafficking in Human Beings') published its second evaluation report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Germany. GRETA welcomed the legislative changes made since the last report and criticised the continued lack of an anti-trafficking strategy.
- The US State Department presented its annual global Trafficking in Persons Report. For the first time, Germany was no longer ranked in the highest category of countries in the fight against human trafficking, but was downgraded to the second level.

11.1 Background and general context

With the transposition of the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims¹⁷⁰ by the Act on Improving Measures to Combat Human Trafficking (German: Gesetz zur Bekämpfung des Menschenhandels)¹⁷¹ that came into force in 2016, the elements of the offence are closely based on the international understanding of trafficking in human beings and make the recruitment, transportation, transfer, harbouring or receipt of persons to be exploited a punishable offence (Section 232 of the Criminal Code). In addition, the persons concerned must be in a financial or personal predicament, under 21 years of age or helpless on account of being in a foreign country (Section 232 of the Criminal Code).

The following are identified as further forms of exploitation: forced prostitution (Section 232a of the Criminal Code), forced labour (Section 232b of the Criminal Code), exploitation of labour (Section 233 of the Criminal Code) exploitation for the purposes of begging and the committing of criminal offences and organ trafficking (Section 232 subs. 1 first sentence letter c and d and third sentence of the Criminal Code).

In the asylum procedure, the Federal Office for Migration and Refugees has been deploying specially trained and sensitised special representatives as decision-makers for victims of trafficking in human beings in its branch offices since 1996. The special representatives are involved in the interview and in the decision on the asylum application. In the case of human trafficking victims, some rules of the asylum procedure can be waived, such as the automatic redistribution or the transfer under the Dublin procedure. The affected persons themselves can be placed in special protective accommodation.

Foreign victims of human trafficking can also be granted a residence permit under the special humanitarian provision of Section 25 subs. 4a of the Residence Act, even if

¹⁷⁰ 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.

¹⁷¹ Federal Law Gazette 2016 Part I No. 48, p. 2226.

they are enforceably required to leave the country. The prerequisite for this is

- that the presence of the person concerned is deemed appropriate for the conducting of criminal proceedings,
- that they have broken off all contact to the persons accused of having committed the criminal offence, and
- they have declared their willingness to testify as a witness in the criminal proceedings relating to the criminal offence.

The term of the residence permit is one year when it is first issued and can be extended after the criminal proceedings have ended for humanitarian or personal reasons (Section 25 subs. 4a third sentence of the Residence Act). In addition, victims of human trafficking are granted a period of at least three months for consideration and stabilisation, within which they do not face any measures under residence law, regardless of whether they actually appear as witnesses in court later (Section 59 subs. 7 of the Residence Act). Even in case of a negative decision in the asylum procedure, the Federal Office for Migration and Refugees therefore grants these people a period of three months to leave the country (Düsseldorf Administrative Court, decision of 12 June 2017¹⁷²).

Various organisations and working groups deal with the issue and/or take care of the affected persons (e.g. the ‘Federal and Länder Working Group on Human Trafficking’ (German: Bund-Länder-Arbeitsgruppe Menschenhandel) and the specialised counselling centres in the area of victim protection). According to the Victims Compensation Act (German: Opferentschädigungsgesetz)¹⁷³ victims of violent crimes receive the same benefits as war victims, irrespective of other social benefits.

11.2 National developments

Trafficking in human beings for the purpose of sexual exploitation

The number of victims of trafficking in human beings for the purpose of sexual exploitation officially recorded in 2018¹⁷⁴ according to the national situation

172 Düsseldorf Administrative Court, decision of 12 June 2017 - 7 K 6086/17.A [ECLI:DE:VGD:2017:0612.7K6086.17A.00].

173 Federal Law Gazette 1985 Part I No. 1, p. 1.

174 The Federal Criminal Police Office’s national situation report on human trafficking is usually published in the autumn of the following year, so at the time of finishing this report, the data

report of the Federal Criminal Police Office was 430 victims (2017: 489; see Figure 15), whereby this only includes victims in completed investigations with the crime committed in Germany (BKA 2019: 7).

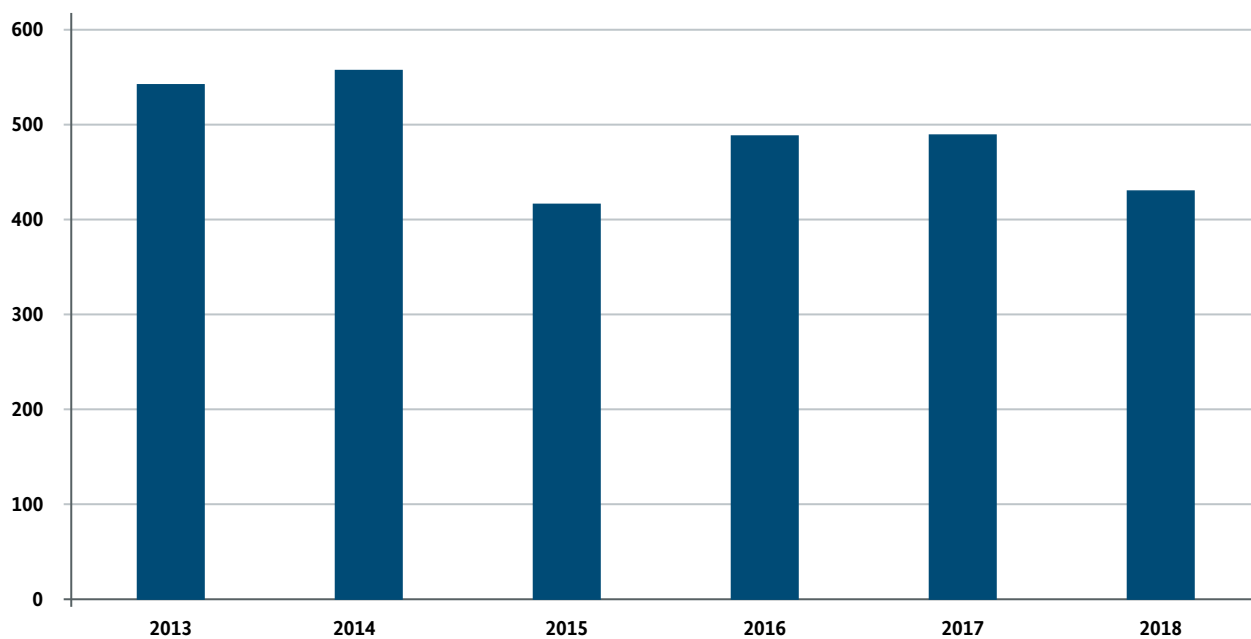
- In 2018, 430 victims of human trafficking for the purpose of sexual exploitation were recorded. Of these, 413 were female, 14 were male and three were of unknown gender.
- German (18.4%), Bulgarian (15.3%) and Romanian nationals (14.7%) were most frequently recorded as victims. Among the third-country nationals, the largest group of origin was, as in previous years, persons from Nigeria (14.2%). The reason for the growing proportion of Nigerian victims may, among other things, be “the EU-wide focus¹⁷⁵ on combating Nigerian groups of perpetrators in the area of human trafficking and the resulting increased attention, e.g. in the context of investigations in the milieu” (BKA 2019: 8).
- 198 and thus almost half of the victims recorded were under 21 years of age (2018: 47.5 %; 2017: 45.8%). 68 of them were minors.¹⁷⁶
- In the reporting year 2018, 365 preliminary proceedings (2017: 327) with a total of 552 registered suspects (2017: 523) were concluded in this area.
- As in previous years, German nationals formed the largest group of suspects in 2018 (20.7%), ahead of Bulgarian (19.2%) and Romanian nationals (13.2%). Among the suspects, the highest number of third-country nationals was made up of Nigerian nationals, whose number increased by 41.4% compared to the previous year, with 41 suspects (2017: 29) (BKA 2019: 15).

Since the national situation report only records data on completed preliminary proceedings, the “significance of the crime statistics with regard to the actual situation [...] is therefore rather low” (KOK n. d.). Furthermore, the German NGO network against trafficking in human beings (German: Bundesweite Koordinierungskreis gegen Menschenhandel) assumes that the number of unreported cases is very high because, among other things, not all cases of trafficking in human beings lead to the initiation of criminal proceedings and not all of these are concluded (KOK n. d.).

for 2019 was not yet available.

175 “As part of the EU Policy Cycle, in 2012 a project was initiated at EU level to combat Nigerian trafficking in human beings throughout Europe. The continuation of the project was reconfirmed in the current EU Policy Cycle 2018-2021” (BKA 2019: 8).

176 Based on the 417 persons whose age was known (BKA 2019: 9f.).

Figure 14: Number of victims of trafficking in human beings for sexual exploitation (2013–2018)

Source: BKA 2019.

Trafficking in human beings for the purpose of labour exploitation

In the area of trafficking in human beings for the purpose of labour exploitation (Sections 232, 232b, 233, 233a of the Criminal Code) in 2018 a total of

- 21 preliminary proceedings were concluded, almost twice as many as in the previous year (2017: 11). 30 suspects were established (2017: 27).
- In this context, 63 victims for the purpose of labour exploitation were registered (2017: 180; -65%). The significant decrease is due to two large-scale proceedings that were completed in 2017 (BKA 2019: 21).
- The victims of labour exploitation in 2018 were mostly Ukrainian (27 persons) and Vietnamese nationals (9 persons). Of the 63 victims of trafficking in human beings for the purpose of labour exploitation recorded, 54 were male, eight were female and one was of unknown gender (BKA 2019: 21).

Other forms of exploitation

In addition, the national situation report 2018 includes figures on other forms of exploitation. For example, in the context of two proceedings on exploitation for the purpose of begging, two victims and ten suspects were recorded (2017: 2 proceedings, 2 victims, 2 suspects). In seven preliminary proceedings in the area of exploitation in the commission of criminal offences,

eight victims and ten suspects were recorded (2017: no proceedings). As in the previous year, no cases of human trafficking for the purpose of unlawful organ removal were reported in 2018 (BKA 2019: 23ff.).

Parliamentary debate on prostitution and a sex purchase ban

In autumn 2019, there was a major debate in the German Bundestag about a so-called sex purchase ban. Members of parliament from different parliamentary groups questioned whether the framework conditions in Germany protect people in prostitution from violence and exploitation. With a sex purchase ban, “people who use sexual services could be sentenced to a fine or imprisonment”, but at the same time the prostitutes themselves go unpunished. However, various scientific studies show that prohibitions in the context of prostitution lead to an increased risk of sexually transmitted diseases, increased violence, deterioration of working conditions and no decrease in the trafficking of human beings (Deutsches Institut für Menschenrechte 2019: 1).

Law against Illegal Employment and Abuse of Social Benefits (German: Gesetz gegen illegale Beschäftigung und Sozialleistungsmissbrauch)

On 18 July 2019, the ‘Law against Illegal Employment and Abuse of Social Benefits’ came into force after being passed by the Bundestag on 6 June 2019. With this law, the Federal Government aims to “combat illegal employment, benefit abuse and undeclared work [...]

more effectively and efficiently in order to ensure fairness on the labour market, the functioning of the social systems and equal conditions for all enterprises” (Deutscher Bundestag 2019a: 2). To this end, among other things, the Custom’s Financial Investigation Office for Clandestine Employment (German: Finanzkontrolle Schwarzarbeit, FKS) is to be strengthened by giving it more staff and powers. The amendments to the law concern illegal employment in general and thus also third-country nationals and EU citizens.

11.3 Developments with an international dimension

Group of experts GRETA

The task of GRETA (‘Group of Experts on Action against Trafficking in Human Beings’ of the Council of Europe) is to evaluate the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings¹⁷⁷ in the signatory states, which is carried out in regular cycles. On 20 June 2019, GRETA published the second evaluation report¹⁷⁸ on the implementation of the Council of Europe Convention in Germany (Europarat 2019). On the whole, it can be seen that the recommendations from 2015 “were only partially implemented” and are therefore taken up again in the current report (Rabe 2019: 2). The report welcomes the legal amendments to the Criminal Code of 2016, which introduced new offences in the area of human trafficking and thus reflect the provisions of the Convention much more comprehensively. The amendments to the Residence Act (2016) also strengthen the rights of victims of human trafficking (Section 25 subs. 4a of the Residence Act) (Europarat 2019).

GRETA criticises, however, that Germany has not yet adopted a national action plan or strategy to combat human trafficking. In addition, in its view, the German government needs a “comprehensive and coherent statistical system” in which statistical data is collected from all main actors, including specialised non-governmental organisations, on measures to protect and promote the rights of victims of human trafficking (Europarat 2019). Moreover, it claims that Germany should strengthen the involvement of different actors and authorities in the identification of victims of all forms of human trafficking and exploitation. Frontline actors should be given a formal role in the

identification process, which should also allow for identification independently of the initiation of criminal investigations. Also, further steps should be taken to proactively identify victims of human trafficking among asylum seekers (Europarat 2019). In the EASO annual report, with regard to the identification of victims of human trafficking in the asylum procedure, the Federal Office for Migration and Refugees commented that the GRETA evaluation report failed to describe various measures taken by the Federal Office for Migration and Refugees in this area. For example, all decision-makers are sensitised to human trafficking and informed about the procedure to be followed once indicators of human trafficking have been identified. In addition, specially trained special representatives are deployed for the asylum procedures of victims of human trafficking (see Chapter 5.2.2 and Chapter 11; EASO 2020b: 100).

GRETA also calls for greater attention to be paid to preventing and combating trafficking in human beings for the purpose of labour exploitation. For example, the report found that police officers, inspectors, public prosecutors and judges were insufficiently trained in this area to properly deal with this type of human trafficking. It calls for improved monitoring of recruitment and temporary work agencies to be implemented, the awareness of migrants about the risks of labour exploitation to be raised, and for the possibility of inspections in private households to be ensured so as to prevent the abuse of domestic workers (Europarat 2019).

In the report, the German authorities are requested to ensure that all victims of trafficking have access to effective support and protection regardless of the form of exploitation and whether they co-operate with law enforcement authorities. It was also stated that Germany should pay more attention to ensuring that unaccompanied and separated minors have better access to care arrangements in order to prevent human trafficking. Lastly, the report calls for further measures to facilitate and better ensure access to compensation for victims of trafficking in human beings (Europarat 2019).

US State Department Trafficking in Persons Report

On 20 June 2019, the US State Department presented its annual global report on human trafficking. For the first time, Germany was no longer ranked in the highest category of countries in the fight against human trafficking, but was downgraded to the second level. According to the US State Department, the greatest shortcoming is that the German judiciary provides “too little deterrence”. Also, compared to the previous year, “no significant steps had been taken to remedy the

¹⁷⁷ Council of Europe, Convention on Action against Trafficking in Human Beings (2005), Warsaw, 16.05.2005, CETS No. 197.

¹⁷⁸ The first report was published in 2015.

shortcomings". According to the Federal Ministry of Justice and Consumer Protection (German: Bundesministerium der Justiz und für Verbraucherschutz, BMJV), the strategies for combating human trafficking are "continuously" being further developed (Dowideit/Mülherr 2019).

12 Migration and development

At a glance

- In response to international developments, particularly in the area of forced migration and migration in general, the Federal Cabinet adopted the new Africa policy guidelines, including the goal of managing and shaping migration, mitigating the causes of forced migration and supporting refugees.
- In December 2019, the first Global Refugee Forum on better support for refugees and host countries was held in Geneva, Switzerland. At the summit, the Federal Ministry for Economic Cooperation and Development (German: Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung) announced new measures to support female refugees and to improve education for refugee children.

12.1 Background and general context

There has been increasing discussion at the international political level since the early 2000s, and in Germany since 2006/2007, about closer integration of migration and development policy (Kraler/Noack 2017). For the Federal Republic of Germany, the Sustainable Development Goals (SDGs) of the United Nations (UN), which were adopted in 2015 and which explicitly name migration as an element of development, as well as the EU's Global Approach to Migration and Mobility (GAMM), which has been continuously developed since 2005 and also aims to maximise the positive contribution that migratory movements and mobility can have on development, serve as a frame of reference (KOM 2018c).

In the areas of migration and development policy, very different goals and interests can conflict. While migration policy primarily aims to control migration movements using instruments such as targeted recruitment or return assistance, development policy focuses on promoting development cooperation structures in the partner countries (Baraulina/Hilber/Kreienbrink 2012; Angenendt 2015).

Since 2015, the aspect of refugee migration has increasingly become the focus of German development cooperation work (Deutscher Bundestag 2017f: 114f.; Sangmeister/Wagner 2017), with the effect that the 15th development policy report of the Federal Government in 2017 states “especially the medium- and long-term reduction of structural causes of forced migration is the core business of development policy” (Deutscher Bundestag 2017f: 43).¹⁷⁹ In addition, assisted voluntary return and reintegration as migration policy instruments were further linked to development cooperation. In the area of German development cooperation, there have already been return assistance programmes for many years for “migrants and refugees interested in returning, but with a focus on skilled workers who are placed in their countries of origin for temporary or permanent stays. Due to the sharp increase in forced migration and rejected asylum applicants in recent

¹⁷⁹ The use of development cooperation to reduce migratory pressures is controversial from a scientific point of view (Angenendt/Martin-Shields/Schraven 2017; Howden 2017).

years, new target groups have now come into focus: people who were obliged to leave the country, who sometimes had to be forcibly expelled, and who no longer left voluntarily” (BAMF 2017b). This represents a change of perspective within the development cooperation.

At the same time, coping with refugee migration at home was perceived more as a development policy task. Certain costs for coping with refugee migration were charged to German development expenditure and numerous projects of the Federal Ministry for Economic Cooperation and Development focused on the situation of refugees in Germany (e.g. *Perspektive Homeland* (German: *Perspektive Heimat*), see below). This also meant that, for the first time, the share of development aid reached 0.7% of gross national income, thus meeting a target already formulated by the United Nations in 1970 (BMZ 2017).

The Federal Ministry for Economic Cooperation and Development is responsible for the conception and promotion of the Federal Government’s development policy projects. The development policy projects are implemented by so-called implementing organisations. The *Gesellschaft für Internationale Zusammenarbeit* (GIZ) GmbH is primarily responsible for the area of ‘Migration and Development’. The Federal Ministry for Economic Cooperation and Development identifies the objective of development policy as the “[sustainable combating of] poverty and structural deficits in developing countries”, whereby “many causes of migration are also taken into account” (BMZ n. d.a).

The total of three areas of work of the German commitment in the field of forced migration and displacement overlap and are intended to supplement each other (BMZ n. d.b):

- Reducing the causes of forced migration
- Stabilising the host regions
- Supporting refugees and returnees.

As a result of the stronger interlinking of migration and development policy in the area of forced migration, there has been institutional cooperation between GIZ and the Federal Office for Migration and Refugees in individual return and reintegration projects since 2015 (e.g. in the URA return and reintegration project in Kosovo).

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 broad framework of which was laid down in the *Global Approach to Migration and Mobility* (GAMM) in 2005. One focus of the GAMM is to provide for better reintegration of migrants in their countries of origin “in order to effectively promote the development of the countries of origin” (Hitz 2014: 2). Apart from linking migration and development policies, for the Federal Government the mobility partnerships represent “an important instrument to stem irregular migration and combat human trafficking, maximise the effects of migration and mobility on development, better organise legal migration and promote mobility, and strengthen refugee protection” (Deutscher Bundestag 2015a: 2). Mobility partnerships target closer neighbouring countries of the EU (Kipp 2018: 8) and are based on four objectives, which include “facilitating legal migration and mobility, reducing or preventing irregular migration and trafficking in human beings, promoting international protection and the external dimension of asylum policy, and making better use of migration and mobility for development (Angenendt 2012: 13; KOM 2018c).

Mobility partnerships have so far been concluded with Cabo Verde (2008), the Republic of Moldova (2008), Georgia (2009), Armenia (2011), Azerbaijan (2013), Morocco (2013), Tunisia (2014), Jordan (2014) and Belarus (2016). With the exception of Cabo Verde, Azerbaijan and Belarus, Germany is involved in all mobility partnerships (KOM 2020d).

Another instrument within the framework of GAMM are the ‘Common Agendas on Migration and Mobility’ (CAMM), which aim at cooperation with countries further afield (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).

12.2 National developments

Perspektive Heimat

Within the framework of the federal return programme ‘*Perspektive Heimat*’¹⁸⁰ of the Federal Ministry for Economic Cooperation and Development, which was launched in 2017, as of 31 May 2019, a total of around “300 000 individual support services such as counselling,

¹⁸⁰ Programme website www.startfinder.de.

training, job placements and (psycho)social assistance [...] have been carried out in the programme's partner countries¹⁸¹ for the local population, internally displaced persons and returnees" (BMZ 2019a). More than 50 000 of these measures were made possible for returnees from Germany and other third countries. There was also funding for more than 11 000 small and medium-sized businesses in the partner countries, which both secured and created jobs. In addition, the federal programme has already been able to help more than 57 000 people find a job or set up a business (BMZ 2019a).

The programme implemented by the GIZ aims to give people who leave Germany in the context of voluntary return the chance to make a new start in their country of origin and also to support the local population in the context of development cooperation. For the Federal Government, the programme implemented by the GIZ represents "a measure that contributes to the implementation of the 2030 Agenda [for Sustainable Development, A/N] [...] and the Global Compact for Safe, Orderly and Regular Migration" (Deutscher Bundestag 2019a: 8).

In 2019, plans were underway to open migration counselling centres in Egypt, Iraq (Baghdad), Nigeria (Benin City) and Pakistan (as of: May 2019; Deutscher Bundestag 2019a: 7). Since the programme's launch in 2017, a total of 755 000 such individual support services had been carried out by October 2020. 122 000 of these were for the reintegration of people who had returned from Germany, among other places.

The GIZ has been provided with a total of 150 million euros by the Federal Ministry for Economic Cooperation and Development for the reintegration of returnees in the years 2017 to 2020. This is used to finance the various elements of the programme (in Germany and in the countries of origin), but also to open up existing local development cooperation projects to returnees (Deutscher Bundestag 2018a: 9). In 2019, the programme had 65 million euros available for new commitments (Deutscher Bundestag 2019a: 9).

For the Federal Government, the programme implemented by the GIZ represents "a measure that contributes to the implementation of the 2030 Agenda [for Sustainable Development, A/N] [...] and the Global Compact for Safe, Orderly and Regular Migration" (Deutscher Bundestag 2019a: 8).

Middle East employment campaign (German: Beschäftigungsoffensive Nahost/Cash for Work)

The 'Middle East employment campaign' launched in 2016 as part of the special initiative 'Combating the causes of displacement, reintegrating refugees' (German: Fluchtursachen bekämpfen, Flüchtlinge reintegrieren) continued in 2019 and was funded with 300 million euros by the Federal Ministry for Economic Cooperation and Development (2018: 195 million euros; 2017: 231 million euros) (Deutscher Bundestag 2019a: 1). The employment campaign aims to create job opportunities, income and a perspective for refugees in the neighbouring states of Syria (Deutscher Bundestag 2019a: 2). The programme creates employment measures that are directly remunerated (cash for work) and are based on the local minimum wage. The workers should thus be able to cover the costs of accommodation, health care and clothing. The aim is to stabilise regions that host Syrian refugees. Here, "to promote social peace" and in keeping with the 'Do No Harm' principle of development cooperation, both refugees and residents of the host communities can participate in all measures (BMZ n. d.c).

In 2019, the employment campaign set the goal of "creating longer-term jobs" and thus increasingly pursued the transition of participants into the primary labour market. In addition, business formations and start-ups were also to be promoted in 2019 (BMZ 2019b).

New guidelines on the Federal Government's Africa policy

In response to international developments, particularly in the area of forced migration and migration in general, the Federal Cabinet adopted the new Africa Policy Guidelines on 27 March 2019. The guidelines further develop those of 2014 and set five goals for the Federal Republic's Africa policy:

- Creating peace, security and stability,
- Promoting sustainable economic development, growth, prosperity and employment and investing in the creation of prospects for young people and women,
- Managing and shaping migration, reducing of the causes of forced migration, support for refugees,
- Strengthening the rules-based global order together with Africa,
- And deepening the civil society partnerships between Africa and Germany (AA 2019b: 5).

¹⁸¹ Afghanistan, Egypt, Albania, Gambia, Ghana, Iraq, Kosovo, Morocco, Nigeria, Pakistan, Senegal, Serbia and Tunisia.

In the area of migration, for example, the focus is on combating the “causes of forced and irregular migration” on the ground. To achieve this, cooperation with the African Union in the area of migration is to be intensified. The aim here is to “create better prospects for the future in home countries, to improve access to regular migration pathways and at the same time manage irregular migration” (AA 2019c).

Programme Migration & Diaspora

In July 2019, the Federal Ministry for Economic Cooperation and Development launched the ‘Migration & Diaspora’ programme, which is implemented by the GIZ in cooperation with the Central Placement Office for Foreigners and Specialists of the Federal Employment Agency under the brand name Centre for International Migration and Development (German: Centrum für internationale Migration und Entwicklung, CIM) (project duration July 2019 to June 2022). The programme is intended to use the positive effects of the migration and diaspora engagement to promote social and economic development in the partner countries¹⁸². The programme is part of the implementation of the National Action Plan for Integration and also contributes to the goals of the Global Compact on Migration. It has the following five priority areas:

- Development-oriented return
- Regular labour migration and mobility
- Social engagement by diasporas
- Financial and economic contribution of diasporas
- Migration governance (GIZ 2019b).

Expert Commission on the Causes of Forced Migration (German: Fachkommission Fluchtursachen)

As provided for in the coalition agreement, the Federal Government appointed the members of the expert commission ‘causes of forced migration’ in July 2019. The expert commission, which consists of a total of 24 experts from science and practice, is to propose measures by the end of 2020 on “how the causes of forced and irregular migration can be overcome even more effectively in future” (BMZ 2019c). The expert commission is chaired by Gerda Hasselfeldt, President of the German Red Cross, and Bärbel Dieckmann, former President of Welthungerhilfe.

12.3 Developments with an international dimension

Brussels Conference on Syria

In March 2019, the third conference ‘Supporting the future of Syria and the region. Brussels III Conference’ was held. In this context, the international community pledged a total of 6.16 billion euros in funding in 2019 to support humanitarian, resilience and development activities related to the Syria crisis (Brussels III Conference 2019). Of this, funding of 1.44 billion euros was pledged by the Federal Government for 2019. The focus here is on the provision of food and medicine and the protection of particularly vulnerable groups (children, women and the elderly) with 500 million euros. In this context, the Federal Government also supports the facilities for refugees in Turkey managed by the EU Commission with 216 million euros (AA 2019d). Germany is thus the second largest contributor to the Syria Conference after the EU Commission. Also, within the framework of the Syria Conference, loans totalling 18.47 billion euros were pledged for 2019 and beyond (Germany in the amount of 5 million euros). In addition, a total of 2.09 billion euros were pledged for 2020 and beyond, including 960 million euros from Germany (Brussels III Conference 2019).

Migration Multi-Partner Trust Fund

In May 2019, the ‘Start-up Fund for Safe, Orderly and Regular Migration’, also known as the ‘Migration Multi-Partner Trust Fund’ (MPTF) was adopted by the United Nations. The MPTF was established by the ‘Global Compact for Safe, Orderly and Regular Migration’ (see also EMN/BAMF 2019: 23). Germany contributes 3.25 million euros to the MPTF, which is allocated to project funding in the areas 1. promoting fact- and data-based migration discourse, policy and control, 2. combating irregular migration and 3. supporting regular migration and improving the positive development effects of mobility. In total, the MPTF is supported with 12 million euros by various states. The implementation of the projects is set to begin in 2020 (UNDP 2019).

Support of regular labour migration and mobility between North Africa and Europe

In 2019, the programme ‘Towards a Holistic Approach to Labour-related Migration Governance and Labour Mobility in North Africa’ (THAMM) of the EU Emergency Trust Fund for Africa (EUTF) was launched, after being adopted in December 2018. The main objective of the

¹⁸² Albania, Cameroon, Colombia, Ecuador, Ethiopia, Georgia, Ghana, India, Indonesia, Jordan, Kenya, Kosovo, Morocco, Nepal, Nigeria, Palestinian territories, Peru, Senegal, Serbia, Tunisia, Ukraine and Vietnam

programme is to “foster mutually beneficial legal migration and mobility” in the countries Morocco, Tunisia, Algeria, Libya and Egypt (KOM 2018d). The programme is co-financed by the Emergency Trust Fund for Africa (20 million euros) and the Federal Ministry for Economic Cooperation and Development (5 million euros). The partner organisations of the programme are the Belgian Development Agency (ENABEL), the IOM, the International Labour Organisation (ILO) and the GIZ. Among other things, the GIZ is responsible for implementing mobility programmes between Egypt, Morocco, Tunisia and the EU, in particular Germany (project duration 2019-2022; KOM 2019g).

Global Refugee Forum

On 17 and 18 December 2019, the first Global Refugee Forum “on better support for refugees and host countries” was held in Geneva (Switzerland). At the summit, the Federal Ministry for Economic Cooperation and Development announced new measures to support female refugees and to improve education for refugee children. These include financial support amounting to 16 million euros for the multilateral education fund ‘Education Cannot Wait’, which makes school education possible for almost two million children and young people in 18 crisis countries, as well as the establishment of an action network for women refugees. In this context, the Federal Minister for Economic Cooperation and Development, Gerd Müller, also criticised that the UNHCR only received about half of the financial resources needed for its work in 2019, as it would be possible to support refugees “many times more effectively” in host countries and countries of origin thus reducing “the causes of forced migration”. In future, the Global Refugee Forum will be held every four years (BMZ 2019d).

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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)
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	
BQFG	Vocational Qualifications Assessment Law (Berufsqualifikationsfeststellungsgesetz)
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)
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)
i.e.	That is to say
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)

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-Investitionsinitiative 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)
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)
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“)
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".
LSBTTIQ	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))

NAP	National Action Plan against Racism (Nationaler Aktionsplan gegen Rassismus)
NetzDG	Network Enforcement Act (Netzwerkdurchsetzungsgesetz)
n. D.	Not dated
NGO	Non-governmental organization (Nichtregierungsorganisation)
No.	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)
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)
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
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
ZUR	Return Support Centre (Gemeinsames Zentrum zur Unterstützung der Rückkehr)

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