Federal Ministry
of the Interior

Migration and Integration

Residence law and policy on migration and integration in Germany

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Foreword by the Federal Minister of the Interior, Dr Wolfgang Schäuble

Dear Reader,

Globalization and technological change have permanently increased the mobility of people everywhere in the world. According to UN calculations, more than 190 million people live in a country other than the one where they were born. And several thousand leave their home countries every day, either in search of better prospects or – in the case of refugees – because they are forced to.

Over the past six decades, millions of people have found a new home in Germany. These immigrants played a big part in helping our country rebuild rapidly after World War II and achieve the exemplary economic growth that laid the groundwork for our prosperity today.

In an ideal process of integration, after several years of legal residence, it is possible to become a naturalized citizen. But for integration to be successful, we must manage migration sensibly, because the ability of our society to accommodate integration is closely related to the scale of immigration. The Residence Act, which took effect on 1 January 2005, is based on this principle, as stated in its Section 1.

The European Union continues to grow closer together. With this in mind, over the past year the EU Member States modernized their migration policies further, because we will be able to meet the challenges of global migration only if we work together.

This is why the Immigration Act required further amendments less than two years after it went into effect. The revised Immigration Act that entered into force on 28 August 2007 transposed into national law eleven EU directives related to residence and asylum law. Further, to increase the emphasis on integration, we revised provisions on the subsequent immigration of spouses, introducing a minimum age requirement and proof of basic language skills before they can enter

the country. A legal provision concerning foreigners whose deportation has been suspended for many years finally gives them the prospect of a secure residence status. And the Federal Government added a number of security-related provisions in response to the attempted “suitcase bombings” of July 2006.

This brochure explains the basic outline of Germany’s policy on migration and integration in a European context. The brochure presents the legal foundations and prerequisites for the Immigration Act as well as structural data and information on immigration in general and by specific groups. It also describes key institutions and lists relevant contact addresses.

Dr Wolfgang Schäuble
The Federal Ministry of the Interior

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1 Migration to Germany: Facts and figures

1.1 The outlines of Germany's migration policy

One of the greatest tasks of our time is coming to terms with migration across national borders everywhere in the world. Although Germany has also seen major internal migration from east to west over the past ten to fifteen years, the following looks only at the in- and out-migration across our national borders.

Between 1997 and 2002, roughly 850,000 people moved to Germany from other countries each year. In 2003, this number fell below 800,000. About 662,000 people moved to Germany in 2006, the lowest number since 1987. By contrast, the number of people moving out of the country remained fairly constant, ranging between 600,000 and 750,000 annually from 1997 to 2006. In 2006, about 639,000 people emigrated from Germany.

Population mobility will continue to rise in future due to increasing globalization. As a result, migration is likely to affect more and more people in the coming decades. In view of the expected demographic changes, migration policy in Germany and Europe as a whole must set the course for the future.

People may decide to leave their native country for many different reasons. About 8 million migrants world-wide are refugees fleeing war, oppression and violence. But we also know that migration movements arise out of differences in living standards.

Migration movements must be viewed in a global context. The European nations must be willing to assist migrants' countries of origin to give their citizens hope for a better future at home. The only way we can meet the challenges migration brings is by working together. At European and national level, we must pay attention to policy interactions and closely coordinate the various policy fields – justice, the interior, economics, development cooperation and foreign relations.

The Global Approach to Migration Policy adopted by the European Council in December 2005 provides important orientation;[1] it contains a concrete action plan for priority measures that are now being gradually implemented by the European Union and its Member States. It calls for expanding the dialogue with third countries and for developing joint measures along the relevant migration routes, in order to bring migration under control.

Migration must be managed and controlled, because there are also interests at stake: the interests of new arrivals and of those already here; personal, humanitarian, economic and national interests; and European and international security and integration interests. The ability to control and manage immigration depends to a significant degree on whether uncontrolled, illegal immigration can be successfully contained and reduced. Germany, Europe and the international community therefore face the following four tasks:

- limiting illegal immigration;
- carefully and responsibly weighing the prospects for legal immigration;
- making integration the prerequisite and limit for further migration, so that it contributes to peaceful co-existence; and
- ensuring the security of the people living in Germany and Europe.

[1] European Council, Brussels, 15–16 December 2005, Presidency Conclusions of 17 December 2005; Doc 15914/05 CONCL 3.

1.2 The history of migration to Germany

Migration to and from Germany has a long history. The reasons for moving to another country have basically remained the same for centuries: the desire for a better life for oneself and one's children; flight from political, ethnic, or religious persecution; forced expulsion.

Long before the targeted recruitment of foreign labour began in 1955, Germany was the destination for numerous immigrants. Already in the second half of the 17th century, for example, Prussia took in large numbers of French Protestants, known as Huguenots, whose lives and livelihoods were threatened in Catholic France. Approximately 20,000 of them, or about one-third of the population of Berlin at that time, sought refuge in Brandenburg. The reception and integration of the Huguenots was not entirely free of conflict at the start. But this early example of migration is an especially good illustration of how immigration can benefit a society over the medium and long term and become a significant growth factor. Another example is the many Polish immigrants who settled in the Ruhr region following the Franco-Prussian War of 1870–71.

Expulsion and flight have long been major causes of migration. Just as many Germans found themselves forced to leave their homeland under the Nazi dictatorship, or millions of Germans fled the territory of present-day Poland and the Czech Republic after the end of World War II, large numbers of people today are forced by war and political persecution to leave their native countries. Very few of them manage to reach Europe; by far the largest majority remains in their regions of origin, where they are taken in and aided by neighbouring countries, themselves often struggling with severe poverty.

As it has in the past, Germany will continue to fulfil its humanitarian obligations towards such persons. These obligations derive in particular from the UN convention on refugees and the right to asylum anchored in Germany's constitution, the Basic Law.

There is also a long tradition of emigration from Germany: in smaller numbers during times of prosperity, in greater numbers during times of economic depression or political instability. One example is the emigration in the 19th century of Germans from Hesse and the Palatinate to France, where they played a crucial role in expanding the canal system and the railway network.

Further examples are the hundreds of thousands who left misery and poverty in Germany during the 19th century to seek new lives in Russia, South America, Canada and the United States.

With its population shrinking and ageing, Germany could find itself relying in the medium and long term on young, educated and highly motivated immigrants because they play an important role in helping maintain the country's prosperity for many years to come.

The next section portrays the development of immigration to Germany since 1945 by the largest groups of immigrants, and it presents current data about foreigners in Germany.

1.3 Immigration to Germany since 1945

As a result of World War II, Germany took in more than 12 million German expellees between 1945 and 1950. About 500,000 foreigners lived in the Federal Republic of Germany in 1950, making up only one percent of the total population. Later immigrants came in several waves.

Migration by foreigners

Most of the growth in Germany's foreign population after 1945 was composed of foreign workers, known as "guest workers", who entered the country from 1955 to 1973, and asylum seekers, who began arriving in greater numbers starting in late 1980. As more members of these groups arrived in Germany, more of their family members accompanied or rejoined them later, and more children were born to them in Germany.

Foreign workers

In the 1950s, the Federal Republic of Germany's "economic miracle" led to a growing demand for unskilled and semi-skilled labour. The domestic supply of labour was insufficient to meet the demand, and the government signed recruitment agreements with Italy (1955), Spain and Greece (1960), Turkey (1961), Morocco (1963), Portugal (1964), Tunisia (1965) and Yugoslavia (1968).

From 1955 until 1961, however, the number of foreigners living in Germany rose by only about 200,000. After 1961, steady economic growth and the German Democratic Republic's decision to close its borders to the West and build the Berlin Wall, which cut off the flow of workers from East Germany, contributed to increasing labour shortages. This development was further exacerbated by the introduction of a shorter working week and a shrinking labour force. From 1960 to 1972, the number of employed Germans fell by 2.3 million, leading to increased recruitment of foreign workers.

In 1960, foreigners accounted for only 1.3 percent of those in employment; by 1973 this figure had risen to 11.9 percent. During this period, the total number of persons in employment rose from 26.3 million to 27.7 million, while the percentage of persons in the labour force (i. e. the total number of employed and unemployed persons as a proportion of total population) fell from 47.6 percent to 43.7 percent between 1960 and 1973.

The first generation of foreign workers was made up mostly of single men between 20 and 40, although increasing numbers of women also came to Germany by themselves. Until the late 1960s, most foreign workers were Italian, Spanish or Greek. Later, workers from then-Yugoslavia and above all Turkey predominated. In 1968, Turkish citizens made up 10.7 percent of the foreign population in Germany, with Yugoslavians at 8.8 percent; by 1973, Turkish citizens accounted for 23 percent of

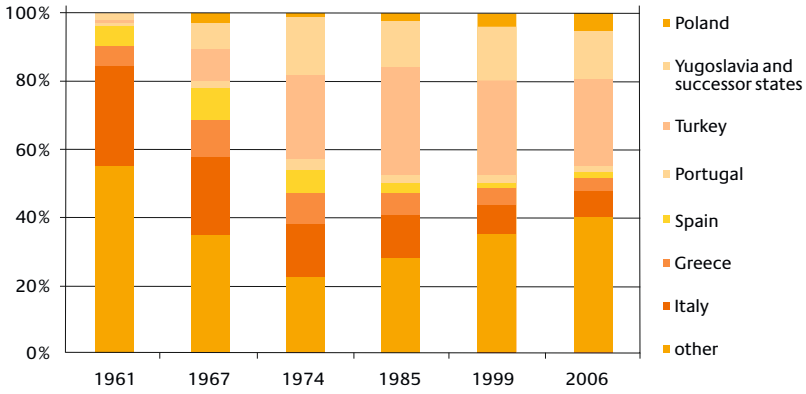
foreigners living in Germany, while Yugoslavians made up 17.7 percent. Most foreign workers were employed in the states of North Rhine-Westphalia, Baden-Württemberg, Bavaria and Hesse.

The original intention was to limit the length of time foreign workers could stay in Germany: Once this allotted time had run out, the foreign workers were supposed to return to their home countries, to be replaced by new ones ("rotation principle"). But starting in the late 1960s, a growing number of foreign workers stayed in Germany permanently. This served the interests of employers, who wanted to keep their experienced workers, and of the workers themselves, who increasingly came to regard Germany as their home and who wished to take advantage of the better income opportunities and existing infrastructure for the long term.

For many foreign workers, the 1973 ban on recruiting foreign labour may have acted as an incentive to stay in Germany permanently, as it made it impossible to return to their home country temporarily and then come back to Germany to work. Subsequent immigration by family members also increased.

From 1973 to 1979 the percentage of foreigners in Germany remained stable. Although the number of foreigners moving out of Germany exceeded the number of those moving in, a rising birth rate largely made up the difference. Overall, between

Figure 1[2]: Foreigners by nationality as % of all foreigners



Source: Central Aliens Register, own calculations

[2] Unless otherwise indicated, data presented in this and subsequent figures for the period up to 1989 refer to the territory of the Federal Republic prior to 1990; data for 1990 and thereafter refer to reunified Germany.

1973 and 1988 the number of foreigners rose quite slowly from 4 million to 4.8 million. But starting in 1986, the number of foreigners moving to Germany rose significantly, exceeding the number of those moving away (see Table 6).

Within only eleven years (1986 to 1996), the number of foreigners living in Germany jumped by 2.8 million to 7.3 million. This growth was only partly due to family members rejoining those living in Germany and to the birth of roughly 1 million foreign children during the period. Most of the rise was due to increasing numbers of asylum seekers starting around 1980 and growing stronger from 1985 onwards. German reunification also occurred during this period (see the section on foreigners in the German Democratic Republic).

Asylum seekers

In addition to immigration by foreign workers and their family members, Germany has taken in asylum seekers since the 1950s. Up to the late 1970s, however, the number of asylum seekers was relatively insignificant at around 10,000 persons a year, most of them from Eastern Bloc countries.

The number of asylum seekers saw a temporary rise in 1979 and 1980. Of the 107,000 persons who applied for asylum in 1980, more than 50 percent were Turkish citizens (Table 1).

The rise was also related to the ban on recruiting foreign labour, as apparent from the much lower rate of applications approved as compared to the previous year. In 1983, the number of asylum seekers again dropped below 20,000, before steadily rising from 1984 until 1992, when it reached its highest point with nearly 440,000.

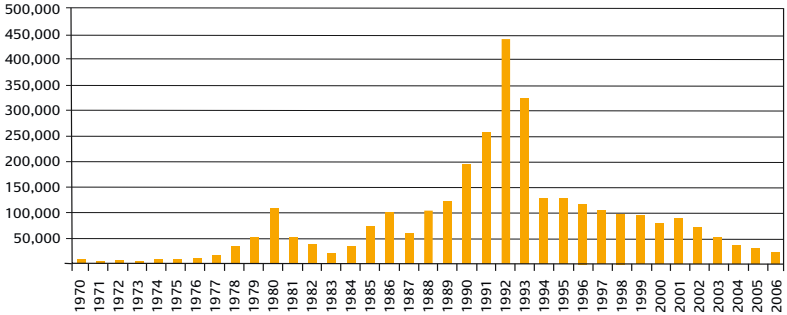
Table 1: Applicants for asylum in 1980

Source: Federal Office for Migration and Refugees (BAMF)

Total	107,818		
by country:		India	6,693
Turkey	57,913	Sri Lanka	2,673
Pakistan	6,824	Czechoslovakia	2,385
Afghanistan	5,466	Poland	2,090

Since the reform of asylum law in 1993, the number of asylum seekers has steadily shrunk; in 2006, there were only about 21,000 applications, the lowest level since 1983 (Figure 2).

Figure 2: Asylum applications in Germany since 1970



Source: Federal Office for Migration and Refugees (BAMF)

Refugees of civil war

In 1991, war broke out in Bosnia and Herzegovina; by the time it ended, with the Dayton Accords of December 1995, Germany had granted temporary residence on humanitarian grounds to around 345,000 Bosnian refugees, more than all the other EU countries combined. The great majority of these refugees has since left Germany, most of them voluntarily and with help from the relevant repatriation aid programmes. Fewer than 10,000 of these refugees are still in Germany; some were granted the right to remain, enabling them to establish permanent residence, while the rest were ordered to leave the country.

During the Kosovo crisis in 1999, Germany took in about 15,000 evacuees from Kosovo as part of an international humanitarian initiative. These persons also returned to their homeland after the conflict ended.

Foreigners in the German Democratic Republic

Starting in the mid-1960s, the German Democratic Republic (GDR) also experienced an influx of foreign workers within the framework of labour cooperation in the Council for Mutual Economic Assistance (Comecon). As in the Federal Republic of Germany, foreign workers were usually employed in areas that Germans found less attractive. But the GDR strictly enforced the rotation principle, so there was no subsequent immigration of family members. Workers' residence permits in the GDR were explicitly linked to their place of work, which made it practically impossible for them to become integrated. According to GDR sources, foreigners made up about one percent of the labour force.

It is almost impossible to compare figures for asylum granted in the Federal Republic and the GDR. While the GDR did acknowledge a right of asylum, in line with the constraints of the system this right was extended only under strict political requirements. But due to the prevailing conditions in the GDR, few people facing political persecution sought refuge there. In late 1989, GDR statistics recorded a total of 334 Chilean and 482 Greek refugees.

Table 2: Foreign population of the GDR as of 31 December 1989

Sources: Federal Office of Labour and Social Research (BMA), Federal Agency for Civic Education

Soviet military personnel	380,000
their family members	200,000
other foreigners (total)	191,200
of whom:	
Contract workers	90,600
from:	
Vietnam	59,000
Mozambique	15,100
Cuba	8,300
Angola	1,300
China	900
Poland:	
non-commuters	3,500
commuters	2,500

1.4 Persons of immigrant background

A look at Germany's population reveals that the number of foreigners living in Germany does not represent the whole migration picture. "Persons of immigrant background" also play a significant role. This term covers both foreign nationals and German citizens, and both those citizens who are themselves immigrants (repatriates, naturalized foreigners) and their children and grandchildren born in Germany. It can be assumed that nearly one in every five persons living in Germany has an immigrant background.

1.4.1 Types of immigrants

Migrants to Germany usually fall into one of the following categories:

- citizens of other EU countries,
- spouses and family members of third-country nationals joining relatives already in Germany,
- ethnic German repatriates from Eastern Europe and the former Soviet Union,
- refugees and asylum seekers,
- seasonal and contract workers and other temporary workers from non-EU countries,
- foreign students, and
- Jewish immigrants.

Migrants from other EU countries

Citizens of other European Union Member States have the right to freedom of movement within the EU (for more information, see Chapter 3). From 1998 to 2003, between 102,000 and 158,000 citizens of the other 14 EU countries moved to Germany each year. This number increased in 2004 to 268,826, in particular due to Poland's entry into the EU (2005: 288,264; 2006: 323,124). In 2006, the number of people who moved to Germany from Poland alone was 142,000.

Up to 2004, net migration within the EU was negligible: From 1998 to 2004, between 1,000 and 20,000 more foreigners left Germany each year to live in other EU countries than came to Germany from other EU countries (the year 2000 was an exception with positive net migration of 7,426). The first major increase in net migration came in 2005: 57,563 more foreigners moved to Germany from other EU countries than moved away; of these, 50,681 more came from Poland than returned (2006: positive net migration from EU overall: 33,000; positive net migration from Poland: 43,000).

Subsequent immigration by spouses and family members of third-country nationals

Spouses, children and in certain cases other family members of third-country nationals may under certain conditions (see Chapter 4 for more information) accompany these nationals when immigrating to Germany or may rejoin them in Germany at a later date.

No precise statistics on such immigration are available, though the number of visas issued by German diplomatic missions abroad for the purpose of family reunification gives a general indication. Statistics kept since 1996 show annual numbers of approx. 50,000 to 85,000 persons, generally rising until 2002. Starting in 2003, the number of visas issued fell steadily to 50,300 in 2006, the latest year for which figures are available. That year, about one-quarter of family members immigrating subsequently applied for their visas in Turkey.

The actual number of family members immigrating subsequently was probably higher, as under certain conditions it is possible to apply to the foreigners authority for a residence permit after arriving in Germany. Such cases are not included in the statistics on subsequent immigration by family members. According the Central Aliens Register, in 2006 about 60,000 residence permits were issued for family reasons to persons who had entered Germany (about 5,000 of these for births within the federal territory).

Immigration by ethnic German repatriates

Ethnic German repatriates ("late repatriates" or *Spätaussiedler*) are ethnic Germans as defined in Article 116 of the Basic Law from the former Soviet Union and Warsaw Pact countries who experienced discrimination related to the events of World War II.

In some cases, this group also shows some difficulties with integration comparable to those of other immigrant groups, due in part to the loss of German language skills as a result of repression.

More than 200,000 ethnic German repatriates immigrated annually in 1993, 1994 and 1995; this number then began to fall steadily to only 7,747 in 2006 (2005: 35,522; cf. Chapter 7).

Admission on political or humanitarian grounds; refugees

The term "refugee" is defined internationally in the Convention relating to the Status of Refugees of 28 July 1951 (Geneva Convention on Refugees). According to the Convention, the term "refugee" applies to "any person who ... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."[3]

In general usage, persons forced by economic need to leave their home country temporarily or permanently are also often referred to as refugees. These are usually people who have left their home country in the absence of a serious threat (as defined in the Geneva Convention on Refugees) and thus more or less voluntarily for economic reasons in the hope of improving their living situation.

The Federal Republic of Germany has taken in more than 3 million asylum seekers since the 1950s. In that time, the Federal Office for Migration and Refugees (BAMF) has granted more than 350,000 asylum applicants the status of refugees under the Geneva Convention on Refugees. In many other cases, deportation of persons whose applications for asylum have been rejected and of other foreigners has been suspended on humanitarian or other grounds.

[3] Chapter 1, Art. 1 no. 2 of the Convention relating to the Status of Refugees (Geneva Convention on Refugees) of 28 July 1951 (Federal Law Gazette II 1953 p. 559, published 28 April 1954, Federal Law Gazette II p. 619).

Such protection is called subsidiary (supplementary) protection. It includes in particular protection against torture or inhumane or degrading treatment or punishment, protection against capital punishment, and protection against concrete threats to a person's life, health or personal freedom.

For a limited time, many people fleeing civil wars, such as people from the former Yugoslavia, found refuge in Germany. For example, up to 1997 Germany admitted roughly 345,000 Bosnian refugees. In all but a few cases (e. g. persons suffering severe trauma), these persons have now left Germany. Such protection is temporary and serves primarily to handle a situation of mass flight or major influx of refugees from war or civil war.

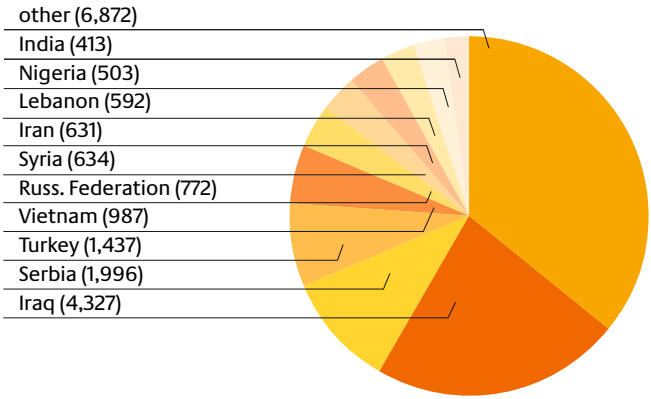
Most people who arrived in Germany years ago and were granted refugee status have since become part of our society, also by acquiring German citizenship. So the figures on the current number of persons admitted on political or humanitarian grounds remain incomplete. Statistics are available for the following groups (see Table 3):

Table 3: Persons admitted on political or humanitarian grounds as of 31 December 2006

Source: Central Aliens Register, Federal Office for Migration and Refugees (BAMF)

Persons entitled to asylum and persons granted refugee status abroad	76,154
Other persons with refugee status under the Geneva Convention on Refugees	60,357
Persons whose refugee status or entitlement to asylum has expired or been revoked	36,772
Asylum applicants	43,972
Stateless foreigners	6,415
Persons to whom a deportation ban applies under Section 60 (2), (3), (5) or (7) of the Residence Act	21,699
Persons whose deportation is subject to temporary suspension	174,980
Persons admitted temporarily on other humanitarian grounds	85,985
Jewish immigrants from the former Soviet Union admitted to Germany	approx. 207,000

Figure 3: Asylum applicants in 2007 (19,164 total first-time applications)



Source: Federal Office for Migration and Refugees (BAMF)

Germany has for many years been increasing its efforts world-wide to help people improve their living conditions in their home countries. Legislative measures, more efficient asylum procedures and growing European cooperation to combat asylum fraud have also contributed to the steady reduction in the number of asylum applicants in Germany since the mid-1990s. In 2007, there were only about 19,000 first-time applications. This is the lowest number since 1977.

Seasonal and contract workers and other temporary workers

As part of the reform of immigration law, the ban on recruiting unskilled foreign workers (those without at least three years of occupational training) remains in place, especially due to the large proportion of unemployed who have not completed occupational training, currently about 38 percent. Allowing foreign workers to fill jobs that do not require specific occupational training therefore continues to be against the law.

However, there are some exceptions to this rule which are covered by the ordinance on the admission of foreigners for the purpose of taking up employment (*Beschäftigungsverordnung*). Temporary migration is an important tool for managing the labour market access of foreign workers. Temporary migration mainly includes the employment of foreign workers under bilateral agreements and in seasonal jobs (seasonal workers).

Bilateral agreements

Since the fall of the Iron Curtain, Germany has concluded bilateral agreements with most Central and Eastern European countries on labour market access for their nationals. One of these is the Agreement on Contract Workers, which allows companies in the contracting parties to send their workers to Germany temporarily in order to provide services on assignment to a German general contractor. The number of workers that can be sent under the terms of these agreements is limited and is adjusted annually in line with German labour market conditions. The total contingent of workers allowed from all thirteen contracting parties is currently 40,390, but only about half that many are actually employed in Germany: 19,636 contract workers as of May 2007.

Bilateral agreements on foreign workers have been concluded with fourteen Central and Eastern European countries. Under these agreements, workers from the contracting parties may be employed in Germany for up to 18 months to gain further occupational and language training. The total contingent of workers allowed under these agreements is 11,550, but from January to May 2007, only 483 foreign workers took up jobs in Germany on these terms.

Seasonal workers

The admission of foreign seasonal workers, mainly employed to help with the harvests, is limited to those countries with which the Federal Employment Agency has made placement agreements. Such agreements have been made with the labour administrations of the new EU Member States Poland, Slovakia, Slovenia, the Czech Republic, Hungary and Romania; an agreement with the labour administration of Bulgaria deals only with employment in the hotel and restaurant sector. A similar agreement exists with the labour administration of Croatia.

Individual foreign workers may be employed for no more than four months per calendar year. The employer may use foreign seasonal workers for no more than eight months per calendar year. Fruit, vegetable, hop and tobacco farms and vineyards are exempt from these restrictions.

Foreign seasonal workers may be admitted only if, in compliance with legal priority in placement and employment, no German or foreign workers of equal legal status can be found for these jobs, and if the terms of employment are not less favourable than those for comparable German workers. From 1995 to 2004, the number of seasonal workers grew steadily from about 177,000 to about 324,000. Since then, this figure has dropped slightly, to about 294,000 workers in 2006.

Further, the Residence Act has introduced the possibility of granting permanent residence to highly skilled workers, such as senior academics and researchers and top-level managers in business and industry. Self-employed foreigners may also immigrate to Germany if their business is of economic interest and can be expected to have a positive impact on the German economy (cf. Chapter 4).

Foreign students

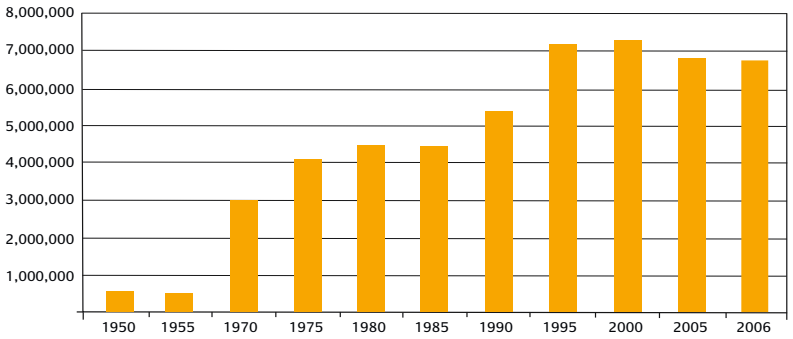
In 2005, about 56,000 foreigners entered Germany to begin their studies after having been accepted for admission abroad (2004: approx. 58,000; 2003: approx. 60,000). In 2006, the total number of foreigners studying in Germany was approximately 189,000 (2005: 187,000; 2004: 180,000; 2003: 163,000).

1.4.2 Current key data

Foreigners in Germany

According to official population projections, there are currently about 7.3 million foreigners living in Germany (8.85 percent of the total population). The proportion of foreigners in the total population has remained at about nine percent since 1995.[4]

Figure 4: Foreigners in Germany since 1950



Source: Central Aliens Register
Note: Lower numbers starting in 2004 due to adjustment of data in Central Aliens Register (AZR).

[4]Due to different data sources, the total number of foreigners calculated in the population projection (approx. 7.3 million) differs from that of the Central Aliens Register (approx. 6.7 million). This publication uses the current data from the Central Aliens Register (AZR). These data refer only to foreigners; for comparisons with the native German and/or total population (see above), data from the population projection were used.

Foreigners in Germany by nationality

The number of foreigners in Germany reflects not only migration movements, but also the number of births to foreigners in Germany (second- and third-generation immigrants), deaths and naturalizations.

Of the approximately 6.75 million foreigners in Germany (as of 31 December 2006, according to the Central Aliens Register), about 2.3 million are citizens of one of the other 26 European Union Member States (34 percent including Romania and Bulgaria, which joined the EU on 1 January 2007).

The largest proportion of foreigners consists of Turkish citizens (1.74 million, or 25.8 percent of all foreigners), Italians (approx. 530,000 or 7.9 percent), citizens of Serbia and Montenegro (approx. 480,000 or 7.1 percent), Poles (360,000 or 5.4 percent) and Greeks (300,000 or 4.5 percent).

Roughly one of every five foreigners living in Germany was born here (1.4 million persons) and is thus a second- or third-generation immigrant. Thirty-four percent of the Turkish citizens living in Germany were born here, as were 30 percent of the Italians, 28 percent of the Greeks, 23 percent of the citizens of Serbia and Montenegro and 4 percent of the Poles.

Table 4: Foreigners in Germany – Top 30 countries of origin and EU Member States

As of 31 December 2006

Source: Central Aliens Register

Total	**6,751,019**
EU citizens (EU-27)	**2,294,620**
of which citizens of new EU members	**646,098**
Third-country nationals	**4,456,399**

Top 30 countries of origin		
1	Turkey	1,738,831
2	Italy	534,657
3	Serbia	480,948
4	Poland	361,696
5	Greece	303,761
6	Croatia	227,510
7	Russian Federation	187,514
8	Austria	175,653
9	Bosnia and Herzegovina	157,094
10	Ukraine	128,950
11	Netherlands	123,466
12	Portugal	115,028
13	Spain	106,819
14	France	104,085
15	United States	99,265
16	United Kingdom	95,356
17	Vietnam	83,076
18	China	75,733
19	Iraq	73,561
20	Romania	73,353
21	Morocco	69,926
22	Macedonia	62,295
23	Iran	58,707
24	Kazakhstan	57,203
25	Thailand	52,849
26	Hungary	52,347
27	Afghanistan	52,163

28	Unknown	43,864
29	India	41,497
30	Lebanon	39,380

EU Member States	
Italy	534,657
Greece	303,761
Austria	175,653
Netherlands	123,466
Portugal	115,028
Spain	106,819
France	104,085
United Kingdom	95,356
Belgium	22,365
Denmark	18,502
Sweden	16,919
Finland	13,175
Ireland	10,093
Luxembourg	8,643

joined 2004	
Poland	361,696
Hungary	52,347
Czech Republic	33,316
Slovakia	23,835
listed as citizen of Czechoslovakia	7,389
Slovenia	21,109
Lithuania	19,030
Latvia	9,775
Estonia	3,970
Cyprus	846
Malta	379

joined 2007	
Romania	73,353
Bulgaria	39,053

Distribution of foreigners

The number of foreigners as a proportion of total population varies widely by region:

In the area of the former German Democratic Republic (not including Berlin), foreigners account for only 2.4 percent of the population, whereas in the former West Germany, about one in every ten residents is a foreigner. But here too, the distribution is very uneven, ranging from 14.2 percent in Hamburg to 5.3 percent in the state of Schleswig-Holstein, according to the Central Aliens Register. In some larger cities, the proportion of foreigners is even higher, for example 25 percent in Offenbach, 24 percent in Munich, 23 percent in Stuttgart and 21 percent in Frankfurt (as of 31 December 2006).

In 2006, the number of foreigners as a proportion of total population by state was as follows (Table 5):

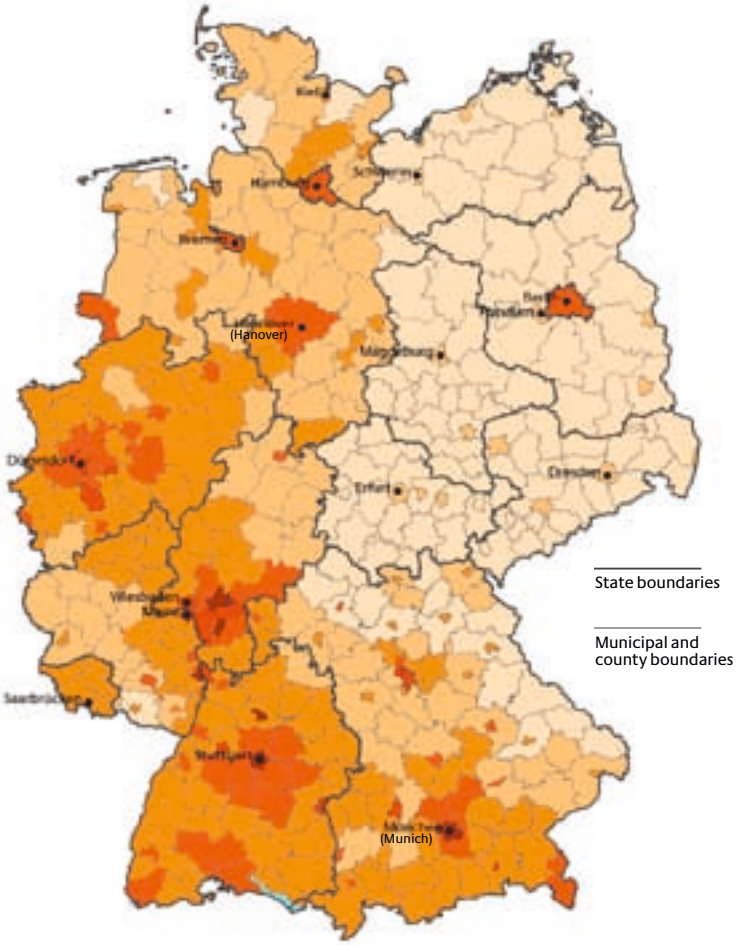
Table 5: Foreigners as a proportion of total population by state

As of 31 December 2006

Source: Federal Statistical Office, population projection

State	Total population	of which foreigners	
		number	%
Baden-Württemberg	10,738,753	1,271,211	11.8
Bavaria	12,492,658	1,178,577	9.4
Berlin	3,404,037	472,653	13.9
Brandenburg	2,547,772	66,313	2.6
Bremen	663,979	84,147	12.7
Hamburg	1,754,182	248,246	14.2
Hesse	6,075,359	685,013	11.3
Mecklenburg-Western Pomerania	1,693,754	39,517	2.3
Lower Saxony	7,982,685	530,716	6.6
North Rhine-Westphalia	18,028,745	1,914,424	10.6
Rhineland-Palatinate	4,052,860	312,905	7.7
Saarland	1,043,167	86,461	8.3
Saxony	4,249,774	120,708	2.8
Saxony-Anhalt	2,441,787	46,386	1.9
Schleswig-Holstein	2,834,254	151,354	5.3
Thuringia	2,311,140	47,318	2.0
Germany total	**82,314,906**	**7,255,949**	**8.8**
of which:			
former West Germany (not including Berlin)	65,666,642	6,463,054	9.9
former East Germany	13,244,227	320,242	2.4
former East Germany (including Berlin)	16,669,665	790,227	4.7

Figure 5: Foreigners in Germany in %



Foreigners as % of total population of municipalities and counties as of 31 December 2006

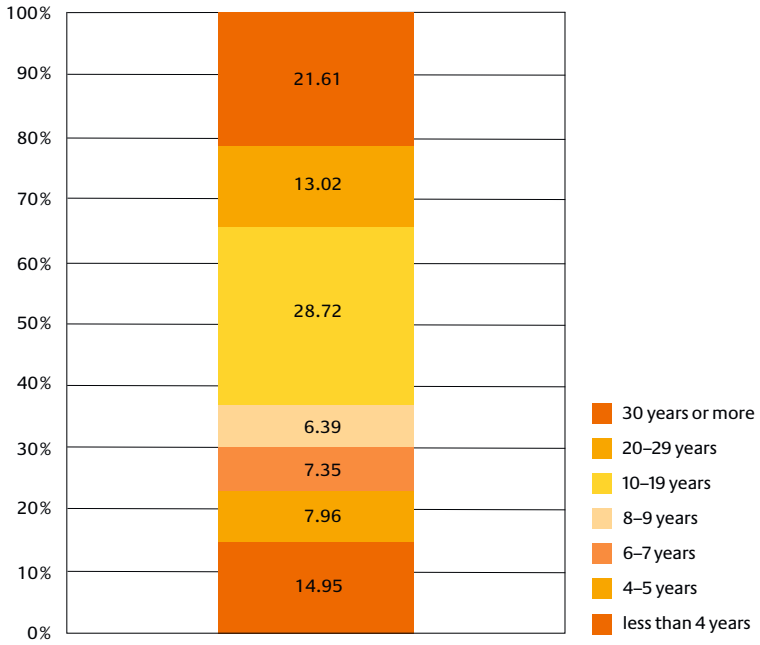
less than 2.5	5.0 to 9.9	15.0 to 19.9
2.5 to 4.9	10.0 to 14.9	20.0 and over

Source: Federal Statistical Office/Central Aliens Register

Length of residence

Table 6 and Figure 6 show the percentage of foreigners by nationality and by length of residence in Germany as of 31 December 2006. Of the 6.75 million foreigners listed in the Central Aliens Register as of that date, nearly 70 percent had been living in Germany for at least eight years, while nearly 35 percent had lived here for 20 years or more. About 15 percent had lived in Germany for less than four years, while another 15 percent had lived here four to eight years. The length of residence differs greatly by nationality.

Figure 6: Length of residence of foreigners in Germany in % and years, 31 December 2006



Source: Federal Statistical Office

Table 6: Foreign population by nationality (selected) and length of residence, as of 31 December 2006

NATIONALITY	Total	less than 4 years	4–7 years
EU 25	**2,183,365**	**342,498**	**243,556**
Italy	534,657	25,290	36,044
Poland	361,696	136,539	61,290
Greece	303,761	13,575	22,931
Portugal	115,028	8,097	11,644
Spain	106,819	10,865	8,493
EUROPE	**5,375,126**	**654,455**	**668,084**
Turkey	1,738,831	94,049	145,746
Serbia	480,947	40,488	64,556
Croatia	227,510	8,489	11,452
Bosnia and Herzegovina	157,094	8,754	10,415
Russian Federation	187,514	62,389	75,382
Ukraine	128,950	34,952	55,263
Romania	73,353	22,091	19,044
Bulgaria	39,053	13,376	13,166
AFRICA	**272,376**	**68,055**	**64,553**
Morocco	69,926	12,410	14,465
Tunisia	23,217	6,231	4,829
Ghana	20,587	4,280	4,324
ASIA	**819,623**	**212,692**	**246,847**
Vietnam	83,076	12,765	15,641
China	75,733	31,373	28,870
Iraq	73,561	13,586	39,063
Iran	58,707	9,185	14,477
Kazakhstan	57,203	16,864	27,807
Afghanistan	52,162	6,124	15,890
AMERICA	**213,069**	**62,624**	**39,935**
AUSTRALIA AND OCEANIA	**10,832**	**3,940**	**1,875**
Stateless	13,574	1,009	2,086
Unknown or no information available	46,402	6,697	10,344
TOTAL	**6,751,019**	**1,009,472**	**1,033,724**
in %	100	15.0	15.3

8–19 years	20 or more years	Avg. length of residence in years
633,634	**963,677**	**20.2**
142,632	330,691	25.1
128,990	34,877	9.2
102,505	164,750	24.1
46,064	49,223	20.0
17,372	70,089	26.5
1,883,579	**2,169,008**	**19.1**
668,278	830,758	20.7
233,788	142,115	
66,161	141,408	25.4
93,006	44,919	18.0
48,897	846	6.1
38,602	133	6.4
30,210	2,008	8.4
10,893	1,618	7.6
101,895	**37,873**	**10.8**
24,062	18,989	14.4
6,338	5,819	12.9
8,496	3,487	11.6
291,405	**68,679**	**9.1**
49,951	4,719	11.7
14,188	1,302	5.8
20,335	577	6.5
21,974	13,071	12.8
12,514	18	5.7
27,730	2,418	9.8
64,719	**45,791**	**12.5**
2,888	**2,129**	**11.7**
4,883	5,596	23.9
21,017	8,344	13.8
2,370,403	**2,337,420**	**17.3**
35.1	34.6	

Source: Federal Statistical Office

Residence status

As of 31 December 2006, more than 4.2 million foreigners (including EU citizens) in Germany had the right of permanent residence and 2.1 million the right of temporary residence; another 40,000 foreigners were awaiting the final decision on their applications for asylum; 257,000 foreigners were required to leave the country, of which 175,000 had been granted a temporary suspension of deportation.

Sex, age and birth rates

In 2006, 48 percent of foreigners were women and 52 percent were men. The average age of foreigners in 2006 was 36.7 years, compared to 43.2 for Germans (as of 2005). In 2004, the average age of foreigners was 34.9 years, compared to 42.7 for Germans.

The number of children born to parents both holding foreign passports decreased in 2006 to 29,176 (approx. four percent of all births). But the number of children who are born to foreign parents and who receive German citizenship is rising each year as a result of the *jus soli* provisions in German law on nationality effective since 1 January 2000. Out of the 68,265 children born to foreign parents in Germany in 2006, roughly 57 percent (39,089) were issued German passports on this basis. Since 2000, a total of 270,352 children have received German citizenship at birth as a result of the new provision (cf. Table 7).

In 2005, the fertility rate of foreign women was 1.7 births, with a downward tendency, compared to about 1.3 births for German women.

Table 7: Births in Germany, 2000 to 2006

As of 31 December 2006

Source: Own calculations based on Federal Statistical Office data

Year	Total births	of which: Total births to parents with foreign citizenship	of which	
			Newborns receiving only foreign citizenship	Newborns receiving German and another citizenship under Section 4 (3) Nationality Act (*jus soli*)
2000	766,999	91,033	49,776	41,257
2001	734,475	82,773	44,173	38,600
2002	719,250	78,993	41,425	37,568
2003	706,721	76,174	39,355	36,819
2004	705,622	73,077	36,214	36,863
2005	685,795	70,417	30,261	40,156
2006	672,724	68,265	29,176	39,089
Total	4,991,586	540,732	270,380	270,352

Table 8: Immigration and emigration by Germans and foreigners

Source: Federal Statistical Office

Year	In-migration		Out-migration	
	Total (incl. Germans)	of which: Foreigners	Total (incl. Germans)	of which: Foreigners
1983	354,496	273,252	487,268	424,913
1984	410,387	331,140	604,832	545,068
1985	480,872	398,219	425,313	366,708
1986	567,215	478,348	407,139	347,789
1987	591,765	472,336	398,518	333,984
1988	860,578	647,534	419,439	358,941
1989	1,133,794	766,945	539,832	438,082
1990	1,256,250	835,702	574,378	465,470
1991	1,198,978	925,345	596,455	497,540
1992	1,502,198	1,211,348	720,127	614,956
1993	1,277,408	989,847	815,312	710,659
1994	1,082,553	777,516	767,555	629,275
1995	1,096,048	792,701	698,113	567,441
1996	959,691	708,453	677,494	559,064
1997	840,633	615,298	746,969	637,066
1998	802,456	605,500	755,358	638,955
1999	874,023	673,873	672,048	555,638
2000	841,158	649,249	674,038	562,794
2001	879,217	685,259	606,494	496,987
2002	842,543	658,341	623,255	505,572
2003	768,975	601,759	626,330	499,063
2004	780,175	602,182	697,633	546,966
2005	707,352	579,301	628,399	483,584
2006	641,925	542,424	625,172	471,801

Net migration	
Total (incl. Germans)	of which: Foreigners
-132,772	-151,661
-194,445	-213,928
55,559	31,511
160,076	130,559
193,247	138,352
441,139	288,593
593,962	328,863
681,872	370,232
602,523	427,805
782,071	596,392
462,096	279,188
314,998	148,241
397,935	225,260
282,197	149,389
93,664	-21,768
47,098	-33,455
201,975	118,235
167,120	86,455
272,723	188,272
219,288	152,769
142,645	102,696
82,542	55,216
78,953	95,717
16,753	70,623

Immigration and emigration

The statistics on immigration and emigration offer a general picture of migration movements in Germany.

From 1991 to 2006, 15.1 million Germans and foreigners moved to Germany, while 11.6 million moved away. The high-water mark was reached in 1992, with 1.5 million persons immigrating to Germany; in 2003, this number fell below 800,000 for the first time. The high level of in-migration reflects the large number of ethnic German repatriates from Eastern Europe and the former Soviet Union until the mid-1990s, the increase in the number of asylum seekers until 1992, and refugees fleeing war and civil war in the former Yugoslavia after 1991/92.

Foreigners make up the largest proportion of persons immigrating to and emigrating from Germany: From 1991 to 2006, roughly 77 percent of persons moving to Germany and 82 percent of those moving away were foreigners. In-migration of German citizens refers to those moving back from other countries and to ethnic German repatriates. Following negative net migration (the difference between the number of those immigrating and those emigrating) by foreigners in 1997 and 1998, net migration has been positive since 1999, though it has been dropping since 2002 due to fewer asylum seekers and ethnic German repatriates from Eastern Europe and the former Soviet Union.

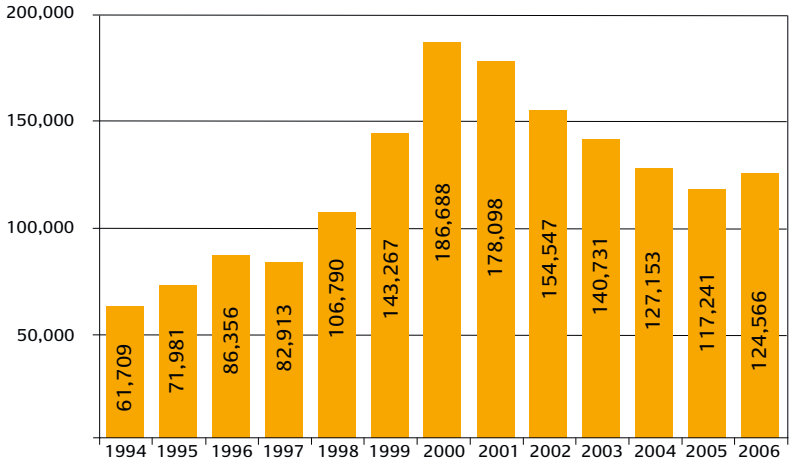
Naturalization certificate of the Federal Republic of Germany.

From 2004 to 2006, the number of Germans leaving exceeded the number of those returning for the first time, above all due to the dramatic drop in the number of ethnic German repatriates. Out-migration by Germans was also extremely high during this period: From 1991 to 2003, an average of 116,000 Germans moved abroad each year, while from 2003 to 2006 this figure was 150,000.

Countries of origin and destination: Immigrants today come from a much wider selection of countries than during the "guest worker" era of the 1950s to early 1970s. Since the mid-1990s this selection has remained fairly constant. Of foreign nationals who moved to Germany in 2006, half came from other EU Member States (not including Romania and Bulgaria); of these, half were from Poland. Five percent came from Turkey; four percent from the Russian Federation; and 28 percent from non-European countries.

For those leaving Germany in 2006, 47 percent moved to other EU countries; of these, 17 percent went to Poland. Five percent moved to Turkey; another five percent moved to the U.S.; three percent went to Switzerland; and 31 percent went to countries outside Europe.

Figure 7: Foreigners becoming naturalized German citizens



Source: Federal Statistical Office

Table 9: Naturalization of foreigners in 2006 by most frequent countries of origin

Source: Federal Statistical Office

Total naturalizations:	**124,566**
of which:	
Turkey	33,388
Serbia and Montenegro	12,601
Poland	6,907
Russian Federation	4,679
Ukraine	4,536
Israel	4,313
Iraq	3,693
Iran	3,662
Morocco	3,546
Kazakhstan	3,207

Naturalization

The number of persons becoming naturalized German citizens more than tripled between 1994 and 2000.[5] Following the reform of the law on nationality, the number of naturalizations peaked in 2000 at nearly 187,000 persons. This number fell steadily thereafter to 117,000 persons in 2005; in 2006, there was a slight upturn as 124,566 persons became naturalized German citizens.

About two-thirds (66.8 percent) of naturalized citizens in 2006 were granted German citizenship based on their eligibility under Section 10 (1) of the Nationality Act: at least eight years of legal residence in Germany and possession of a settlement permit or a valid residence permit for a specific purpose.

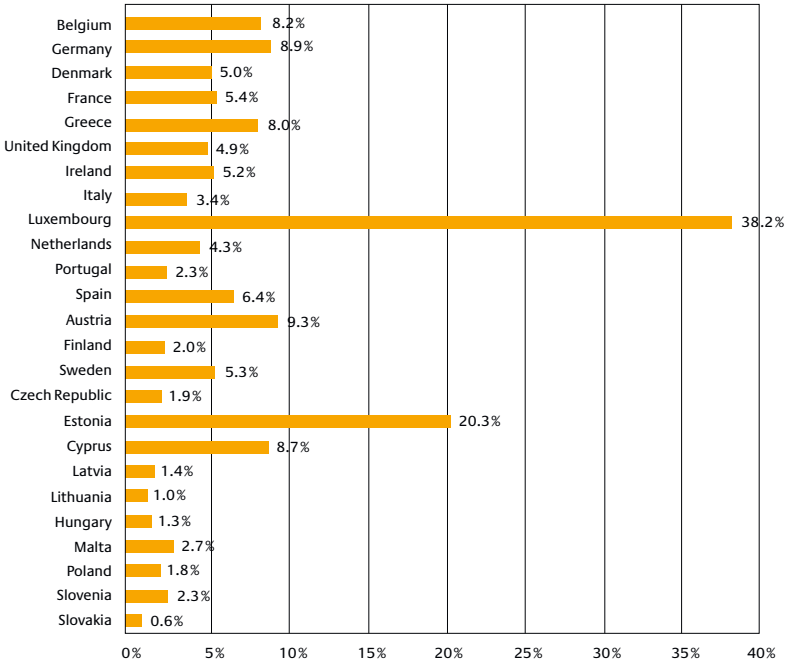
As in previous years, in 2006 the largest group by far was former Turkish citizens, who accounted for about one-quarter of those becoming naturalized German citizens. Former citizens of Serbia and Montenegro followed in second place, accounting for another ten percent of naturalizations; in third place were former Polish citizens, accounting for nearly six percent.

[5] For purposes of comparison, the naturalization data for 1994 to 31 July 1999 have been adjusted by subtracting naturalized ethnic German repatriates.

1.4.3 Germany in international comparison

The data on the size and proportion of the migrant population in Germany are comparable only to a limited extent, because the definitions and statistical methods for counting foreign nationals and those with an immigrant background vary widely between countries. Nonetheless, the following figure and table (Figure 8 and Table 10) are intended to offer an approximate comparison of the relative size of the foreign populations in the EU Member States.

Figure 8: Percentage of foreigners in the EU, 2005



Source: Eurostat

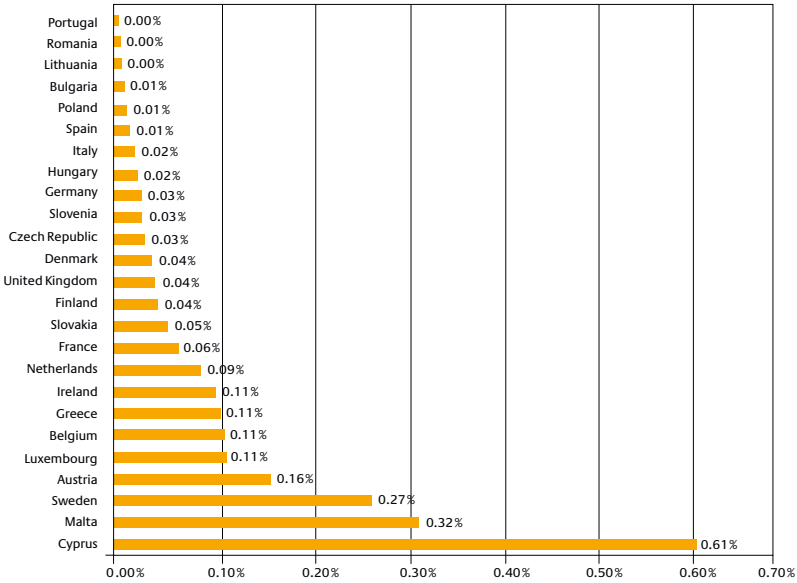
Table 10: Total and foreign population in the EU

Source: Eurostat publication *Bevölkerungsstatistik* 2006 (Population statistics 2006);

Note: population figures for 2005; data on foreign nationals for 2004, except France (2000), Lithuania and Bulgaria (2001), Poland (2002), Portugal and Cyprus (2003).

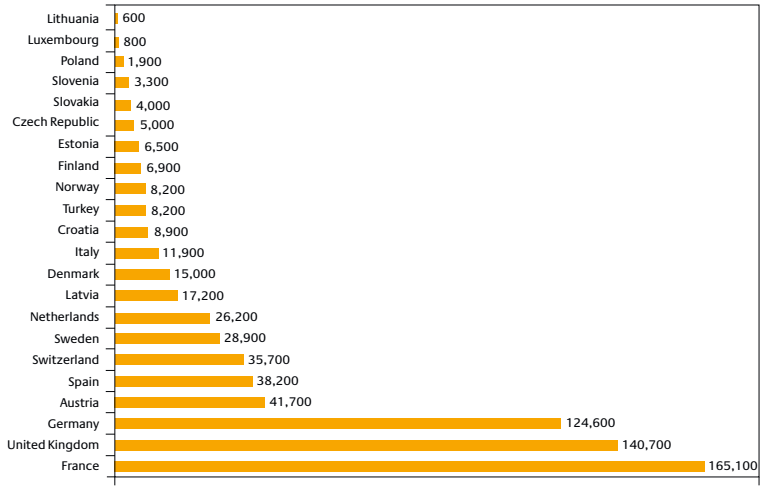
Country	Population	Foreign nationals	As % of total population
Belgium	10,445,900	860,000	8.2 %
Germany	82,500,800	7,342,000	8.9 %
Denmark	5,411,400	271,000	5.0 %
France	60,561,200	3,263,000	5.4 %
Greece	11,075,700	891,000	8.0 %
United Kingdom	60,034,500	2,941,000	4.9 %
Ireland	4,109,200	215,000	5.2 %
Italy	58,462,400	1,990,000	3.4 %
Luxembourg	455,000	174,000	38.2 %
Netherlands	16,305,500	702,000	4.3 %
Portugal	10,529,300	239,000	2.3 %
Spain	43,038,000	2,772,000	6.4 %
Austria	8,206,500	765,000	9.3 %
Finland	5,236,600	107,000	2.0 %
Sweden	9,011,400	476,000	5.3 %
Czech Republic	10,220,600	195,000	1.9 %
Estonia	1,347,000	274,000	20.3 %
Cyprus	749,200	65,000	8.7 %
Latvia	2,306,400	33,000	1.4 %
Lithuania	3,425,300	34,000	1.0 %
Hungary	10,097,500	130,000	1.3 %
Malta	402,700	11,000	2.7 %
Poland	38,173,800	700,000	1.8 %
Slovenia	1,997,600	45,000	2.3 %
Slovakia	5,384,800	30,000	0.6 %
Bulgaria	7,761,000	26,000	0.3 %
Romania	21,658,500	26,000	0.1 %
Total	**488,907,800**	**24,577,000**	**5.0 %**

Figure 9: Asylum applicants in EU countries as % of total population, 2006



Source: Eurostat; Federal Statistical Office

Figure 10: Naturalization in selected European countries



Source: Eurostat, 2004 Population Statistics

Table 11: Number of asylum applications in international comparison

Country	1995	1998	2001
European Union	**266,452**	**299,862**	**412,263**
Belgium[1]	11,648	21,965	24,527
Denmark	5,104	5,699	12,512
Germany	127,937	98,644	88,287
Finland	854	1,272	1,650
France[1]	20,329	22,375	47,260
Greece	1,312	2,953	5,499
United Kingdom[2]	54,988	58,000	91,553
Ireland	424	4,626	10,325
Italy	1,752	9,513	14,844
Luxembourg	394	1,709	686
Netherlands	29,258	45,217	32,579
Austria	5,920	13,805	30,135
Portugal	450	365	234
Sweden	9,047	12,844	23,499
Spain	5,678	6,639	9,219
Estonia	**	23	12
Latvia	**	58	14
Lithuania	**	163	256
Malta	150	170	120
Poland	843	3,373	4,506
Slovakia	359	506	8,151
Slovenia	**	499	1,511
Czech Republic	1,413	4,082	18,087
Hungary	130	7,097	9,554
Cyprus	110	230	1,770
Bulgaria	517	833	2,428
Romania	**	1,236	2,431
Germany in %	45.9	30.5	20.0
Other countries			
Norway	1,460	8,543	14,782
Switzerland	17,021	41,302	20,633
Canada	25,912	24,937	41,694
USA	147,870	52,081	67,141
Australia	7,677	8,156	12,366

2004	2006
256,378	**191,130**
15,357	11,587
3,222	1,918
35,607	21,029
3,861	2,288
59,424	39,315
4,359	12,267
33,930	23,525
4,766	4,315
9,720	10,110
1,372	520
7,849	14,465
24,676	13,350
110	130
23,161	24,322
5,398	5,310
20	10
10	10
140	160
1,230	1,270
8,077	3,764
11,354	2,864
1,173	518
5,459	3,016
1,600	2,109
9,860	4,545
1,127	665
662	460
13.0	10.3
7,945	5,320
14,248	10,537
25,499	22,907
31,191	33,752
3,301	3,508

[1]) not including minor children
[2]) not including family members
Source: Federal Office for Migration and Refugees (BAMF); Inter-Governmental Consultations on Asylum, Refugee and Migration Policies; United Nations High Commissioner for Refugees
Note: Numbers may differ slightly depending on source.

2 The growing European dimension of migration policy

2.1 Introduction

For various reasons, many people from all over the world wish to live in the European Union. But their immigration creates a number of problems which can be resolved only if the EU Member States work together.

This awareness has led to increasing cooperation at European level. Intergovernmental cooperation began in 1975 and the 1993 Treaty of Maastricht first created a foundation for this cooperation based on Community law, although the powers of the European institutions were still limited.

The 1999 Treaty of Amsterdam represented a significant step forward by giving the Community far-reaching legislative authority in the field of immigration and asylum. However, decisions by the Council of Ministers required unanimity, and the European Parliament did not have any co-decision powers. The Council of the EU was given the task of passing legislative acts in the various areas of immigration and asylum policy within five years of the entry into force of the Treaty of Amsterdam.

At their meeting in Tampere, Finland, in October 1999, the EU heads of state and government adopted a common asylum and immigration policy to meet the targets set out in the Treaty of Amsterdam. The policy includes four separate but closely related issues: partnership with countries of origin, a common European asylum system, fair treatment of third-country nationals, and the management of migration flows. This policy is to be implemented in two steps: In a first step, minimum standards, i. e. harmonization of the basic principles of national legislation, were to be created within five years. The next step will be to achieve further harmonization over the long term.

The Treaty of Nice, which went into effect in February 2003, amended the decision-making procedure in the field of asylum and refugees: The Council adopted the common rules and principles and included them in the Directive on minimum standards in asylum procedures, which entered into force in January 2006. Most of

this policy area is now subject to majority voting in the Council and co-decision by the European Parliament. However, the principle of unanimity continues to apply to the issue of legal migration.

With the expiry of the Treaty of Amsterdam and the five-year period mentioned in the conclusions of the Tampere European Council, in November 2004 the European Council adopted the multiannual "Hague Programme for strengthening freedom, security and justice in the European Union" based on what had been achieved so far and intended to achieve further progress. In the area of migration and asylum, the Hague Programme aims to improve international protection, the management of international migration movements, the security of the Union's external borders and the integration of migrants.

From the time the Treaty of Amsterdam entered into force, progress has been made in all areas of the common asylum and migration policy, and numerous Community acts have been adopted.

European Union law draws a basic distinction between primary and secondary legislation: Primary legislation includes in particular the treaties establishing the European Communities and the subsequent treaties between the Member States amending these treaties, which must be ratified by the national parliaments. These treaties include (date of entry into force)

- the Treaty on European Union: the Treaty of Maastricht (1 November 1993),
- the Treaty of Amsterdam (1 May 1999), and
- the Treaty of Nice (1 February 2003).

Secondary legislation includes in particular regulations and directives. Regulations are directly applicable and binding in all EU Member States without the need for any national implementing legislation. Directives bind Member States to the objectives to be achieved within a certain time-limit. The individual Member States must pass national legislation or otherwise ensure that the objectives are implemented.

In December 2005, the European Council adopted conclusions on a common strategy for the external dimension of the area of freedom, security and justice, on principles of migration and external relations, on an agenda for Africa and the Global Approach to Migration (including priority actions focusing on Africa). This approach continued to be developed in 2006 and 2007 and was expanded to include eastern and south-eastern Europe.

In this context, the interior ministers of Germany and France in October 2006 presented a joint initiative on reorienting European migration policy. This initiative aimed at increasing European cooperation on fighting illegal migration, promoting measures of temporary migration, concluding partnership agreements on migra-

tion and development and creating a European support agency to achieve harmonized asylum policy at European level. Thanks to the commitment of Germany's EU Presidency, central aspects were also taken up in the European Commission's communications "Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union" and "Circular Migration and Mobility Partnerships between the European Union and Third Countries" of 16 May 2007. Lastly, the European Council conclusions adopted in June 2007 prepared the way for testing the mobility partnerships proposed by the Commission on a voluntary basis in pilot projects with selected third countries, thus taking a new approach to managing and controlling migration.

2.2 European policy on asylum and refugees

2.2.1 Directives and regulations

Harmonizing legislation on asylum and refugees in the Member States is intended to create a consistent level of protection throughout the EU for asylum seekers and to help make sure that asylum seekers do not target those Member States which offer the most favourable conditions.

Specifically, the following legislation was passed:

Temporary Protection Directive

Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, p. 12).
This Directive concerns the reception of persons in need of protection by Member States in the event of a mass influx to the European Union. If a qualified majority of the Council finds that such a mass influx is under way, all Member States are to provide numbers indicating their reception capacities.

Based on the indicated reception capacity and country of destination, persons in need of protection may be admitted to the Member State for a maximum of three years. Persons given temporary protection are granted access to the labour market. Member States may, however, give priority to EU citizens and third-country nationals with privileged claims. Persons under temporary protection may apply for asylum. The Member States may postpone decisions on asylum applications for the duration of the temporary protection.

Reception Conditions Directive

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (OJ L 31, p. 18).

The Directive aims to establish common living standards for asylum seekers in the Member States in order to avoid undesirable developments such as onward migration of asylum seekers within the EU and "asylum shopping", i. e. persons applying for asylum in more than one Member State. The Directive includes provisions on housing and health care, as well as access to the labour market and to education.

Dublin II Regulation

Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 50, p. 1).

In 2003 the EU established binding objective criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged by a foreigner in one of the Member States. The Regulation, which succeeded the Dublin Convention, defines two basic criteria for determining responsibility: first, that family members residing in different Member States should be brought together; and second, that responsibility for examining an asylum application lies with the Member State responsible for the foreigner's presence in the EU. For example, if a foreigner applies for asylum in Germany, but entered the EU on a French visa, France is responsible for examining the application. These provisions ensure that asylum applications are processed, but they also prevent foreigners from lodging multiple or successive asylum applications.

Eurodac Regulation

Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 316, p. 1).

Eurodac is the common Automated Fingerprint Identification System for asylum seekers and foreigners who entered or are residing in the EU illegally; this system went into operation in 2003. According to the Eurodac Regulation, Member States are required to take fingerprints of every asylum seeker and of every foreigner entering the EU unlawfully over the age of 14. The fingerprints are compared with data stored in Eurodac to determine whether the person concerned has already filed an asylum application in another Member State or has unlawfully entered EU

territory via another EU Member State, making it easier to apply the responsibility criteria laid down in the Dublin Convention for the period up to 2003 and in Council Regulation (EC) No. 343/2003 for the period since 2003.

Asylum Qualification Directive

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ L 304, p. 12).

This directive defines the material and legal requirements for granting refugee status (this falls within the scope of Section 60 (1) of the Residence Act but does not affect the right of asylum granted by Article 16 a of Germany's Basic Law) or subsidiary protection and the relevant status rights. Refugee status is determined on the basis of the Geneva Convention. "International" subsidiary protection is granted if the requirements of the Geneva Convention are not fulfilled but the asylum seeker is nonetheless in need of protection because his/her human rights are severely threatened. The Qualification Directive does not affect subsidiary protection granted on the basis of national law, e.g. in case of serious illness which cannot be treated in the country of origin.

Asylum Procedures Directive

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (OJ L 326, p. 13).

This directive deals with asylum procedures before administrative bodies and, to some extent, courts. It defines the rights and obligations of asylum seekers – e.g. the right to an interpreter, a personal interview and access to the UNHCR, the obligation to report to the competent authorities, and to hand over documents – as well as different types of decisions and procedural principles which ensure efficient, fair and targeted decisions on asylum applications. These include inadmissible applications, unfounded applications, the concept of safe countries of origin, entry from safe third countries, and the treatment of subsequent applications.

European Refugee Fund

Decision No 2007/573/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 (OJ L 144, p. 1).

As the first measure of the common asylum and refugee policy, the Council decided on 28 September 2000 to establish a European Refugee Fund with a budget of € 216 million to 2004. The fund is intended to assist the Member States financially with receiving asylum seekers and refugees. Since then, the fund has been extended a third time for the years 2008 to 2013 as part of the programme "Solidarity and Management of Migration Flows". The fund supports Member States' services related to the reception and integration of asylum seekers, refugees, persons entitled

to subsidiary protection, and expelled and resettled persons. The decision expressly provides measures to help Member States in situations of particular pressure which place urgent demands on their asylum systems. For the period from 2008 to 2013 the European Refugee Fund (ERF) has a budget of € 628 million. From 2000 to 2006 Germany received funds totalling approx. € 56 million.

2.2.2 Current and future efforts

In June 2007, the Commission presented its report on the Dublin and Eurodac regulations and in November 2007 its report on Council Directive 2003/9/EC. In addition to evaluating legislation on asylum and refugee rights, current priorities are first, increased practical cooperation among the national asylum authorities, above all to ensure that EC legislation is consistently applied in the Member States. Second, cooperation with asylum seekers' countries of origin and transit is also being strengthened. Through its Regional Protection Programmes, the EU is helping to build up protection capacities; initial target areas are Ukraine, Moldova, Belarus and the Great Lakes region of Africa (with a focus on Tanzania). In general, refugee policy is to be included in the Global Approach to Migration, in which policies on migration, humanitarian aid and development cooperation are to be integrated more closely into a coherent strategy.

In the field of common asylum and refugee policy, the Hague Programme aims to complete the second phase of harmonization by 2010 and create a Common European Asylum System. However, the second phase of harmonization called for in the Hague Programme depends on carefully evaluating the application of legislative acts from the first phase. In June 2007, the European Commission initiated the discussion on the form and content of the second phase of harmonization when it presented a Green Paper on the prospective Common European Asylum System. The Commission would like to incorporate the results of the consultations on this Green Paper into a strategy to be drafted in the first quarter of 2008; in this strategy, the Commission plans to announce which measures it intends to propose in order to create the Common European Asylum System.

2.3 A common EU policy on migration

2.3.1 Regular migration

As the result of a policy objective set at the European Council in Seville on 21–22 June 2002, several legislative proposals at European level were rapidly enacted:

Family Reunification Directive

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, p. 12).

This Directive governs the harmonization of the right to family reunification of third-country nationals residing lawfully on the territory of the Member States, including recognized refugees. The Directive provides entitlement to reunification for nuclear families. Spouses and children up to their 18th birthday may join a family member living in the EU. For children over 12 years travelling separately from the rest of their family, the Member State may make entry and residence conditional on whether the child fulfils the requirements for successful integration. Another requirement for family reunification is that the family member already residing in a Member State has a stable and regular income sufficient to support himself/herself and his/her family members without recourse to the social assistance system of the Member State concerned. Member States may require family members to comply with integration measures before or after their arrival.

Directive on long-term residence

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 016, p. 44).

The Directive harmonizes the right of third-country nationals to long-term residence, the creation of a common EU long-term residence title, and the right to free movement (right of residence in other Member States). It governs the requirements for issuing an EU long-term residence title to third-country nationals who have resided legally and continuously in a Member State for five years. According to the Directive, long-term residents are to enjoy largely equal treatment with nationals, for example with regard to access to the labour market and social benefits. A new provision for all Member States is that long-term residents may move to another Member State.

Regulation on a uniform format for residence permits

Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, p. 1).
The Regulation aims to create a uniform format for residence titles for third-country nationals. It stipulates the general features of a uniform residence title; a sample is provided in the annex. The residence permit may be issued in the form of a sticker or as a stand-alone document.

A Commission proposal on amending this Regulation was adopted under the Portuguese Presidency. The proposal calls for issuing residence titles only in the form of stand-alone documents including biometric features, i. e. fingerprints and facial images, on a chip embedded in the document. Including biometric features is an important step towards using new elements to prevent fraud by establishing a more reliable connection between the holder and the residence title.

Students Directive

Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, p. 12).
The Directive covers admission requirements for students, unpaid trainees, participants in cross-border volunteer programmes and exchange pupils. It also defines the right to be issued a residence title in another Member State for the purpose of studies, if the third-country national holds a residence title as a student in one Member State. This provision is intended to promote the mobility of foreign students.

Researchers Directive

Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, p. 26).

This Directive makes it easier for highly skilled foreign researchers from third countries to be issued residence permits.

Communication from the Commission – Policy Plan on Legal Migration (COM(2005) 669 final)

In December 2005 the Commission presented its ideas on the future of European migration policy in a policy paper which includes the planned measures and legal initiatives to pursue the coherent development of EU policy on legal migration.

The plan also addresses the issue of criminal prosecution and all aspects of the fight against trafficking in human beings: coordination of EU initiatives, harmonization of national legislation, uniform collection of statistical information by the EU Member States, protection of victims, awareness-raising campaigns in the countries of origin, reduction of demand, repatriation and reintegration of victims.

On the issue of legal immigration, the Commission announced a series of legislative and operational measures in four action areas, in particular the presentation of a framework directive governing basic rights of legally employed third-country nationals, as well as four more sectoral directives for dependent employees (highly skilled workers, seasonal workers, intra-corporate transferees and paid trainees). Proposals presented by the Commission in October 2007 for a directive on highly skilled workers and for a framework directive are currently under discussion in the Council bodies. The Commission plans to present further proposals in autumn 2008.

2.3.2 Combating illegal migration

As in the past, combating illegal immigration remains a priority of European migration policy under the Hague Programme.

Already the Comprehensive Plan to combat illegal immigration and trafficking of human beings (Council doc. 6621/1/02) adopted 28 February 2002 pursued the aim of increasing Member State cooperation in this area.

Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorized entry, transit and residence (OJ L 328, p. 17) in combination with the Framework Decision 946/2002 of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorized entry, transit and residence (OJ L 328 of 5 December 2002, p. 1) establishes sanctions against aiding the illegal entry and residence of immigrants.

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 (OJ L 261, p. 19) is also aimed at fighting human trafficking by granting temporary residence titles to the victims of trafficking who cooperate with the competent authorities.

The Commission presented a comprehensive communication on a common policy concerning illegal immigration (Communication from the Commission on Policy priorities in the fight against illegal immigration of third-country nationals, COM (2006) 402 final; Council Doc 11881/06). In its Communication the Commission lists and describes what it considers the current political priorities and suggests a number of practical measures and actions including cooperation with third countries, secure borders – integrated management of external borders (e.g. registration of third-country nationals upon entering and leaving the EU), the fight against hu-

man trafficking, secure travel and ID documents, the problem of granting amnesty to illegal residents, illegal employment as a key pull factor, return policy, better information-sharing through existing instruments, and carriers' liability with respect to the prevention of illegal immigration.

As indicated in its Communication, on 16 May 2007 the Commission presented its proposal for a directive intended to combat the employment of third-country nationals residing illegally in the EU, thereby reducing the effect of this pull factor for illegal migration (Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals, COM (2007) 249 final; Council Doc 9871/07). The proposal is currently under discussion in the Council bodies. It includes a ban on employing third-country nationals residing illegally and would ensure that all Member States take similar measures to implement this ban. The focus is on the employer rather than the illegal resident. Proposed measures range from preventive measures such as reporting and monitoring requirements, to administrative or penal sanctions.

2.4 European visa policy

One of the measures to compensate for discontinuing checks at the internal borders in accordance with the Schengen Agreement and the Convention Implementing the Schengen Agreement is a common visa policy. Its core element is the uniform Schengen visa which entitles its holder to stay in the Schengen area during the visa's validity period, but no longer than three months in any six-month period. The European visa policy governed by Community law consists above all of a list of third countries whose nationals are required to hold visas or not in accordance with Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 081, p. 1), last amended by Council Regulation (EC) No 1932/2006 of 21 December 2006 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 405, p. 23), as well as a highly secure, uniform visa format intended to prevent forgery and fraud, and uniform criteria for lodging, examining and deciding on visa applications.

In this way, European visa policy makes an important contribution to combating illegal immigration and enhancing security within the EU. Another component of the European visa policy is concluding visa facilitation agreements with third countries.

Application for a Schengen visa.

In addition, European bodies are currently discussing the following regulations:

Proposal for a Regulation of the European Parliament and of the Council establishing a Community Code on Visas – COM(2006) 403 final
The visa code would consolidate and to a certain extent reform the existing Community acquis governing the granting of Schengen visas. It would be a fundamental reform intended to incorporate and replace a number of legal instruments such as the Common Consular Instructions (CCI) and Articles 9 to 17 of the Convention Implementing the Schengen Agreement. This would revise the main rules of the common visa policy.

Proposal for a Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organization of the reception and processing of visa applications – COM(2006) 269 final
The proposed Regulation aims at amending the Common Consular Instructions (CCI) in view of the implementation of the Visa Information System (VIS) which requires Member States to collect biometric data from visa applicants. To provide diplomatic missions abroad with a stable framework for capturing biometric identifiers, the proposal includes general provisions on the collection of biometric

data and on various forms of cooperation among Member States (limited representation, co-location, common application centres) and with private agencies for the reception and processing of visa applications.

The European Visa Information System (VIS) will be especially important for the common visa policy and its practical application. Work on the legal basis for the VIS was successfully completed during the German EU Presidency in the first half of 2007. Certain data, including biometric data (a facial image and ten flat fingerprints) collected during the visa application process are to be stored in the VIS, a central, Europe-wide database. The plan is based on German proposals made immediately after 11 September 2001. The aim is to prevent visa shopping (i. e. multiple visa applications in more than one Member State), verify personal data, harmonize visa procedures, fight illegal migration and trafficking in human beings, and combat terrorism. The database is due to be operational in 2009. Within a period of two years all Member States should be connected. Diplomatic missions abroad as well as border and asylum authorities will have access to the VIS. The proposal also outlines possibilities for access by the security authorities. The VIS is a modern, flexible and intelligent response to the challenges participating Member States must face in fighting illegal immigration and ensuring security.

2.5 EU policy on returns

Effective returns of third-country nationals required to leave the EU is an important part of managing migration movements. The Amsterdam Treaty assigned the European Community responsibilities in the field of returns in order to shape effective policy based on common standards. Not only do the Member States need to work together; it is also important to make policy on returns an integral part of overall relations with third countries.

The Return Action Programme of 25 November 2002 (Council Doc 14673/02) called for improving practical cooperation among the EU Member States on voluntary returns and returns of third-country nationals required to leave; drafting common minimum standards for returns and country-specific return programmes; and intensifying cooperation with third countries.

Since 2001, therefore, the Council has given the European Commission a mandate to negotiate Community readmission agreements with Albania, Algeria, China, Hong Kong, Macao, Morocco, Pakistan, Russia, Sri Lanka, Ukraine, the Western Balkan countries, Moldova and Turkey. The agreements with Hong Kong, Macao,

Sri Lanka, Albania and Russia have entered into force; agreements with Ukraine, the Western Balkan countries and Moldova have been formally signed but have not yet entered into force.

Measures related to voluntary returns are currently eligible for funding from four programmes: AENEAS, the European Refugee Fund (ERF), ARGO and the Preparatory Phase for a planned EU Return Fund. The Return Fund was to go into operation on 1 January 2008 with a budget of € 676 million for the period 2008–2013. These resources will be used to encourage voluntary returns and to help Member States counsel foreigners whose applications have no chance of being approved. To tackle the problem of illegal EU residents (approx. 500,000 annually) the Fund is also intended to pay for return flights organized jointly by Member States. Along with national return programmes, these instruments are intended in particular to support cooperation among Member States on returns and joint efforts in the field of return management.

Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third-country nationals (OJ L 149, p. 34) creates the conditions needed to carry out an expulsion decision issued by a competent authority in one Member State against a third-country national present within the territory of another Member State.

Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air (OJ L 321, p. 26) specifies binding rules to standardize the procedure (including assistance measures) for removal by air via transit Member States and to improve cooperation at European level on returns of third-country nationals. Return measures via transit Member States regularly affect the sovereignty of the transit country, in particular with regard to the use of direct force. Therefore, relevant Community legislation is needed.

Council Decision of 29 April 2004 on the organization of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (2004/573/EC) (OJ L 261, p. 5) aims to coordinate joint removals by air, from two or more Member States, of third-country nationals who are subjects of individual removal orders.

With its Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (COM 2005/391 final), presented on 1 September 2005, the

Commission hopes to create a common framework in the form of minimum standards for deportations and returns. The proposal is currently under discussion in the Council and its bodies.

2.6 European policy on integration

The long-term integration of immigrants into the Member States' societies is an important prerequisite for preserving freedom, cohesion within open societies and peaceful co-existence in Europe. Integration means equal opportunity to participate in society. It requires both acceptance by the receiving society and efforts by each and every immigrant to become integrated. Integration will be a lasting success only when all migrants are able to learn the language of their country of residence, complete their education, find work, and accept the basic rules of co-existence in our countries.

Integration policy is the responsibility of the Member States. The title on asylum and immigration policy of the Treaty establishing the European Community does not explicitly provide for EU competence concerning integration measures. But in June 2003, the Thessaloniki European Council agreed to expand cooperation among Member States on promoting integration of third-country nationals. Integration measures are aimed at third-country nationals lawfully residing in their host country and likely to live in the EU permanently.

Under the 2004 Dutch Presidency, Member States agreed on common principles for integrating immigrants. EU Member States cooperate by exchanging information and experience. To this end, the National Contact Points on Integration were set up as an expert group under the auspices of the European Commission. In 2003 this group launched the "Handbook on Integration" project for the European Commission to regularly report on best practices of integration policy all over Europe. In December 2005 the ministers of justice and home affairs agreed to continue sharing information and experience via the National Contact Points on Integration and to meet regularly to discuss the further development of immigration policy at European level.

For this reason, the issues of integration and intercultural dialogue were also a focus of the Federal Government's work programme for the German Presidency in the first half of 2007. In June 2007, the Justice and Home Affairs Council adopted conclusions on strengthening cooperation on integration policy under the motto "Unity in Diversity". They aim at ongoing, lasting cooperation at EU level and between Mem-

ber States on integration and intercultural dialogue. The National Contact Points on Integration have a comprehensive mandate in line with the challenges associated with second- and third-generation immigrants. At German initiative, a forum for sharing information and experience on intercultural dialogue is being set up at European level for the first time. This also entails creating structures to allow rapid coordination at short notice in case of urgent problems.

The European Commission also has a variety of programmes to promote national-level integration measures by the Member States, for example in the areas of social affairs, labour market integration, education, language learning and urban co-existence. The Commission also supports innovative integration projects which serve as a model for other Member States.

The European Fund for the Integration of Third-Country Nationals established for the period 2007–2013 as part of the general programme "Solidarity and management of migration flows" is intended to assist Member States in their efforts to integrate third-country nationals of different cultural, religious and linguistic backgrounds into their societies. With a budget of € 825 million, the Fund focuses above all on measures for the integration of new immigrants.

2.7 Other international cooperation

The issues that arise in connection with international migration cannot be dealt with exclusively at the national or regional level. In addition to the Federal Government's efforts with the help of bilateral agreements and treaties, such as readmission and cooperation agreements, and in addition to joint efforts within the framework of the European Union, multi-national entities and associations including the United Nations play an increasingly important role.

The Council of Europe sees itself as responsible for further developing the migration and integration policy of its 47 member states in accordance with common principles and especially with regard to its three core competences: human rights, democracy and the rule of law. The Committee of Ministers has established a Committee on Migration to coordinate efforts and draft recommendations for the member state governments concerning migration management, integration and the legal status of immigrants.

The issue of international migration is also gaining attention within the United Nations. After appearing on the agenda at the 1994 UN International Conference on Population and Development in Cairo, the topic of migration has been an increased focus of the UN Commission on Population and Development in recent years. At the UN's initiative, the Global Commission on International Migration (GCIM) was founded in Geneva on 9 December 2003. Members include Sweden, Switzerland, Italy, Morocco, India, the Philippines, Mexico, Egypt and Brazil along with a number of other G-77 countries.

The Commission, on which the former Bundestag president Dr Rita Süssmuth represented Germany, presented its final report, "Migration in an Interconnected World: New Directions for Action" on 5 October 2005. The report offers an overview of global migration, underlined by impressive facts and figures. Among other things, the Global Commission recommended recognizing the positive impact migration has on development in migrants' countries of origin, creating programmes for temporary migration, actively promoting integration in the countries of destination, using migration policy to place a higher priority on human rights, and intensifying and improving coordination of action taken by governments of different countries.

At the Global Forum on Migration and Development, hosted by Belgium and held in Brussels on 9–11 July 2007, government representatives, international experts and representatives of major non-governmental organizations discussed various

proposals by the Global Commission along with current migration policy issues. The Philippines will chair the next Global Forum on Migration and Development, to take place in Manila on 27–30 October 2008.

3 Freedom of movement for EU citizens

3.1 General information

As EU citizens, all nationals of the Member States of the European Union have the right to move freely within the European Union and to enter and reside in any EU Member State. This right is guaranteed under Article 18 of the Treaty establishing the European Community.

In addition, the right to freedom of movement also includes the possibility to engage in economic activity, i. e. to be employed or self-employed and to provide services.

This freedom of movement was originally conceived of as an economic, market-related freedom; that is, it was primarily intended to allow EU citizens to engage in economic activity in all Member States. The right of residence was a necessary consequence of this freedom and therefore had only a subordinate role.

Due to increasing integration and, above all, to the introduction of EU citizenship in the Maastricht Treaty, effective 1 November 1993 (Article 18 of the EC Treaty), this understanding has taken on a broader significance. The right to reside in another Member State is no longer dependent on economic activity. The right of entry and residence exists independent of the economic context. This development began in 1990/1993 when the right to freedom of movement was introduced for pensioners, students and other persons not in the labour force who have a right of residence under certain conditions.[6] Now, with Article 18 of the EC Treaty, the right of every EU citizen to "move and reside freely within the territory of the Member States" is expressly set down in primary law. However, this freedom of movement is not unconditional, but is subject to the limitations and conditions laid down in the EC Treaty and by the measures adopted to implement it.

Further, like national citizenship, citizenship of the Union is to be understood as a special bond between citizens and the European Union.

[6] See text below.

EU Member States
Countries having freedom of movement agreements with the EU
Other countries
ICELAND
NORWAY
SWEDEN
FINLAND
ESTONIA
RUSSIAN FEDERATION
LATVIA
LITHUANIA
IRELAND
UNITED KINGDOM
DENMARK
BELARUS
NETHERLANDS
BELGIUM
GERMANY
POLAND
UKRAINE
LUXEMBOURG
CZECH REPUBLIC
FRANCE
LIECHTEN-STEIN
SLOVAKIA
REPUBLIC OF MOLDOVA
SWITZERLAND
AUSTRIA
HUNGARY
SLOVENIA
ROMANIA
CROATIA
PORTUGAL
ANDORRA
MONACO
SAN MARINO
BOSNIA AND HERZEGOVINA
SERBIA
SPAIN
ITALY
MONTENEGRO
BULGARIA
KOSOVO
VATICAN CITY
ALBANIA
FORMER YUGOSLAV REPUBLIC OF MACEDONIA
GREECE
TURKEY
MALTA
CYPRUS
MOROCCO
ALGERIA
TUNISIA
LIBYA
EGYPT
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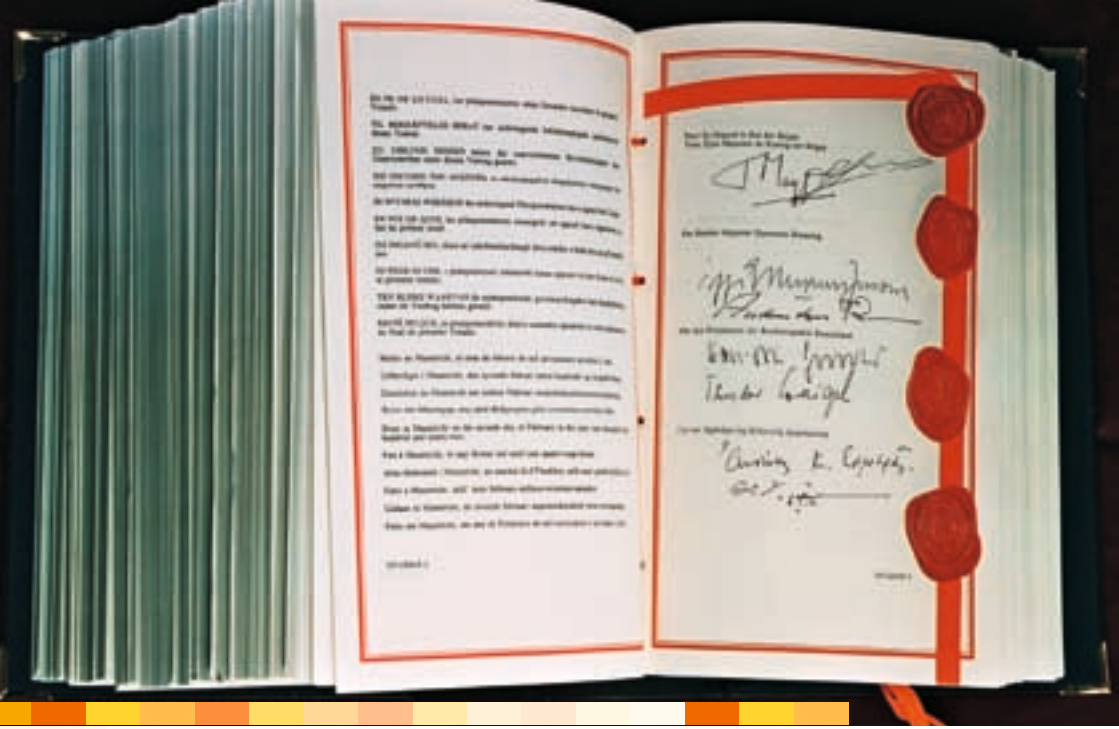


3.2 Legal basis

The conditions and extent of EU citizens' right to freedom of movement are founded on European law, which is reflected and implemented in national law in the form of the Act on the General Freedom of Movement for EU Citizens (Freedom of Movement Act/EU).

In European law, the conditions for the freedom of movement are set down in Article 18 (for all EU citizens), Article 39 (for workers), Article 43 (for self-employed persons) and Article 49 (on the provision of services) of the Treaty establishing the European Community, as well as in Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, which entered into force on 30 April 2004.

The requirements of European law are reflected in the national legislation mentioned above; Community law, including the rulings of the European Court of Justice, is to take precedence when interpreting such legislation.

3.3 Legal status of EU citizens

The right of EU citizens to enter and reside in a Member State distinctly differs from that of third-country nationals. This reflects the progress Europe has made on integration.

EU citizens do not need a visa to travel to other Member States. They do not even need a passport; an official identity card is sufficient.

During the first three months of their stay, EU citizens who hold a valid travel passport or identity card have a right of residence without having to meet any further conditions.

Nor do they need a residence permit after the three months are up. EU citizens receive a certificate confirming their right of residence. The information needed by the foreigners office to issue such a certificate can also be provided to the competent registration office, so that it is not necessary to visit two different authorities. According to European law, the following categories of persons have the right to move and reside freely within the Member States of the European Union after the first three months of their stay have elapsed:

- workers,
- established self-employed persons,
- providers of services,
- recipients of services,
- persons entitled to permanent residence (usually after five years of legal residence),
- pensioners, students and other persons not in the labour force,
- and their family members.

Special conditions apply to EU citizens who are not in the labour force. They have the right to freedom of movement only if they and their family members are covered by health insurance and have sufficient resources to support themselves and their family members for the entire length of their stay. These resources must be sufficient to ensure that no recourse to social assistance will be needed. The foreigners authority may require proof that the EU citizen concerned fulfils the requirements for the right to reside in the country.

3.4 Loss of the right to entry and residence

EU citizens may lose their right to enter and reside in the territory of a Member State if they no longer fulfil the conditions for the right of residence. This is the case only if a EU citizen seriously endangers the public order and security of the Member State concerned. His or her behaviour must be a real and sufficiently serious threat to the public order or security, affecting the basic interests of society. Apart from that, an individual assessment of the potential threat must come to the conclusion that he or she will continue to pose a threat to public security also in future. Once a person has gained the right of permanent residence, the assessment standard becomes even stricter: After ten years of residence, the right of residence may be revoked only if the person has committed a serious crime or poses a terrorist threat.

3.5 Transitional arrangements for the acceding Central and Eastern European countries

Nationals of the countries that joined the European Union on 1 May 2004 and 1 January 2007 are also EU citizens. For these new Member States, the treaties and acts of accession provide for transitional measures regarding the free movement of workers in certain service sectors in Germany and Austria, subject to certain conditions, until complete freedom of movement has been implemented. The most important features of these transitional provisions are as follows:

They provide for a flexible “2+3+2” model, in which the older Member States may apply measures regulating the labour market access for citizens of the new Member States for an initial transition period of two years, in derogation of the directive on the freedom of movement of workers within the Community (phase 1). Following assessment based on a report by the European Commission, the older Member States may extend these measures by an additional three years (phase 2); thereafter, in case of actual or expected severe disturbances in the labour market, these measures may be extended by a further two years (phase 3).

Federal Republic of Germany border sign.

As far as labour market access is restricted in accordance with the 2+3+2 model, Germany may restrict the cross-border provision of services using own workers in the service sectors of construction and related branches, industrial cleaning and interior decorating.

Similar transitional provisions were applied when Greece, Portugal and Spain joined the EU. The citizens of Cyprus and Malta have had the right to freedom of movement without restrictions in accordance with European law since their accession.

The right of persons holding valid passports or ID cards to stay and move freely in any Member State for up to three months also applies to the new EU citizens without restrictions. For longer stays, freedom of movement applies without restrictions to the following groups in accordance with the requirements of European law:

- established self-employed persons,
- self-employed providers of services in all service sectors,
- persons employed by service providers in sectors other than construction and related branches, industrial cleaning and interior decoration,
- recipients of services,
- persons with the right of permanent residence,
- pensioners, students and other persons not in the labour force.

This excludes the following (except for citizens of Cyprus and Malta):

- workers,
- persons employed by service providers in construction and related branches, industrial cleaning and interior decorating.

For these persons, the following applies:

The Federal Republic of Germany continues to enforce its national and bilateral regulations governing access to the labour market. This means that workers from the new Member States, with the exception of Cyprus and Malta, will continue to need a work permit. Unlike third-country nationals, citizens of the new EU Member States are not subject to recruitment bans on employment requiring at least three years of occupational training. This means that the employment agency issues an EU work permit after checking whether other job candidates with priority are available to fill the position.

If foreign workers are involved, the cross-border provision of services in the sectors listed above is permitted only in accordance with national and bilateral regulations. This means that such services must be approved within the framework of a service contract procedure carried out by the Federal Employment Agency. For more information on work permit legislation and the service contract procedure, please contact the Federal Employment Agency.

Citizens of the new Member States do not need a visa to travel to other Member States, regardless of the purpose of their journey. They may acquire any necessary work permits after entering the country. A passport is not required for entry; an official identity card is sufficient.

4 Foreigners' right of residence in Germany

Only foreigners holding a recognized and valid passport or passport substitute may enter or reside in the Federal Republic of Germany. In order to enter and reside in Germany, foreigners must have either a visa, a (temporary) residence permit or a (permanent) settlement permit. In transposing Council Directive 2003/109/EC, Germany also introduced an EC long-term residence permit.[7]

According to European Community law, citizens of certain countries require a visa for stays of up to three months within a six-month period. The conditions for issuing such visitor's visas are also regulated by European law. However, they are largely identical with Residence Act requirements for issuing other types of residence titles.

As a rule, persons applying for a residence title must fulfil the following requirements:

- they must have sufficient resources to support themselves;
- they must be able to establish their identity and, if they are not entitled to return to another country, their nationality;
- no grounds for expulsion exist;
- if a foreigner has no claim to a residence title, that foreigner's residence must not affect or threaten the interests of the Federal Republic of Germany for any other reason;
- they hold a valid passport.

[7] Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

A foreigner is regarded as having sufficient resources to support him-/herself if he/she can pay all necessary living expenses, including adequate health insurance coverage, without recourse to public funds. This does not include child benefits, supplementary child allowance, child-raising benefits or public funds based on own contributions or granted in order to enable residence in Germany. Other family members' contributions to household income are taken into account when issuing or renewing residence permits allowing the subsequent immigration of dependents. A foreigner has sufficient health insurance coverage if he/she is enrolled in a statutory health insurance fund.

Further, a residence or settlement permit will be issued only if the foreigner has the necessary visa to enter Germany, if applicable, and has already provided the necessary information in his or her visa application. These requirements may be waived if the person in question fulfils the requirements for a residence title or if, due to special circumstances in the individual case, it would be unreasonable for him or her to apply for a visa after having entered the country.

The EC long-term residence permit may be granted to foreigners who have been lawfully resident in Germany for five years. This permit allows foreigners to move to another EU Member State and, like the settlement permit, it gives third-country nationals largely the same status as German citizens, for example with regard to labour market access and social insurance benefits.

According to the Residence Act, the issuing of residence titles is oriented on legally defined purposes of residence, in particular employment, training and education, humanitarian reasons, and subsequent immigration of family members.

4.1 Employment

In view of Germany's current high unemployment, the Federal Government places high priority on future-oriented education and labour market policy. At the same time, growing pressure on markets and accelerating change in the structure of employment demand the entry and international exchange of highly skilled workers. Fostering research and higher education in Germany requires offering more attractive conditions for innovative specialists and students from abroad.

The option of more flexible labour migration is needed to be able to deal with labour shortages. Senior academics and top-level managers who are offered a position in Germany may therefore be granted permission to work without having to determine whether German candidates are available if the position fulfils certain criteria defined in the law. They are granted a settlement permit when they arrive if they can reasonably be expected to become integrated into life in Germany.

Self-employed immigrants can have a significant economic impact, as most jobs in modern economies are created in small and medium-sized businesses. The Residence Act therefore aims to make it easier for foreign entrepreneurs, especially those with innovative ideas, to immigrate. To do so, it includes provisions on residence for the purpose of self-employment. As a general rule, self-employed persons receive a residence permit if they invest at least € 500,000 and create at least five jobs. This is the first time that this aspect of immigration has been given an independent legal basis, thereby appropriately acknowledging its significance. The provision is intended in particular to make it easier for foreign entrepreneurs with secure financing and a sound business plan to make long-term investments in Germany.

The ban on recruiting foreign labour remains in effect for unskilled, semi-skilled and skilled workers; some exceptions apply to skilled workers and certain occupations in specific, justified cases when it is in the public interest.

When applying for a work permit, foreigners need go only to their foreigners authority; the Federal Employment Agency or regional employment agencies are involved by means of an internal approval procedure. The foreigners authority issues the work permit, if approved by the employment administration, together with the residence permit (one-stop government). Before approving the work permit application, the employment administration conducts an individual check to determine whether permission to work will have any detrimental effects on the labour market.

Citizens of the new EU Member States are permitted to work in certain jobs as long as no German or other equally entitled candidate is available to fill the position. But citizens of the new EU Member States have priority over third-country nationals who are entering Germany for the first time (Section 39 (6) of the Residence Act).

4.2 Education and training

Foreign students have a good chance of staying in Germany: After completing their studies, graduates may take up employment commensurate to their university degree. They may be granted a one-year residence permit in order to look for appropriate employment.

4.3 Family reasons

The Immigration Act which entered into force on 1 January 2005 left the earlier legal situation unchanged while taking into account most of the provisions contained in Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. This Directive was fully implemented by the Act to Implement Residence- and Asylum-Related EU Directives, which entered into force on 28 August 2007.

The Act to Implement Residence- and Asylum-Related EU Directives also introduced key changes concerning the subsequent immigration of spouses in order to promote integration and prevent forced marriage. As a result, for foreigners to be able

to join their German or non-German spouses in Germany, both spouses must now be at least 18 years of age, and the foreigner who wishes to immigrate must have at least basic German language skills (Section 28 (1) fourth sentence in conjunction with Section 30 (1) first sentence, no. 1 and no. 2 of the Residence Act). This is intended to ensure that spouses immigrating subsequently to Germany will be able to communicate in everyday situations using basic German and thus be able to take part in society from the time they arrive. In certain cases, the law allows for the requirement concerning the minimum age and/or the proof of German language skills to be waived (Section 30 (1) second and third sentences Residence Act).

Children are legally entitled to join their non-German parents in Germany until they reach the age of 18; this applies to children of persons entitled to asylum, children of Convention refugees[8] (Section 32 (1) Residence Act) and children entering Germany together with their families, children with proficiency in the German language, and children who are likely to have no difficulty becoming integrated in German society (Section 32 (2) Residence Act). In all other cases, children may immigrate up to their 16th birthday (Section 32 (3) Residence Act), but limited discretion is possible to take into account the best interests of the child and the family situation (Section 32 (4) Residence Act).

According to Section 29 of the Residence Act, the general conditions for the subsequent immigration of family members are as follows:

- the foreigner they wish to join in Germany must hold a settlement permit, an EC long-term residence permit or a residence permit,
- sufficient living space is available,
- the family member has sufficient means to support him- or herself without recourse to public funds (Section 5 (1) no. 1 Residence Act), and
- no grounds for expulsion exist (Section 5 (1) no. 2 Residence Act).

Additional conditions must be fulfilled depending on the individual circumstances (in particular, concerning foreigners wishing to join non-German spouses; see Section 30 (1) Residence Act).

[8] Persons with refugee status under the Geneva Convention on Refugees.

Persons entitled to asylum and recognized Convention refugees may be exempted from the requirements to demonstrate sufficient living space and independent means of support, because such persons are unable to live with their families in their home country due to political persecution (Section 29 (2) Residence Act).

Minor unmarried children of German nationals and parents of minor unmarried Germans whose residence serves the purpose of care are entitled to a residence permit without having to prove that they have sufficient living space and means to support themselves (Section 28 (1) second sentence Residence Act), if the German's usual place of residence is in the federal territory. Foreigners wishing to join a German spouse in Germany may, in exceptional cases and under special conditions, be asked to prove that they have sufficient means to support themselves (Section 28 (1) third sentence Residence Act). Spouses immigrating subsequently are entitled to take up paid employment (Section 28 (5) Residence Act).

Labour market access for family members of foreigners depends on whether the foreigner whose family members are joining him/her has permission to take up paid employment (Section 29 (5) no. 1 Residence Act). Dependents of foreigners with equal (unrestricted) access to the labour market are given equal access as well; dependents of foreigners with lower-priority access are also given lower-priority access. Further, dependents are given labour market access if the spouses have been legally married and living together in Germany for at least two years unless the foreigner whose family members are joining him/her has only a temporary right of residence with no prospect of long-term residence or unrestricted access to the labour market (Section 29 (5) no. 2 Residence Act).

Family members of foreigners who have been issued a residence permit on certain humanitarian grounds may be permitted to immigrate subsequently only upon consideration of the individual case; furthermore, such family members must qualify for residence permits based on humanitarian grounds or international law (Section 29 (3) first sentence Residence Act). In cases where the residence permit was granted only for a temporary stay or under the statutory regulation governing old cases (Section 104 a (1) first sentence, Section 104 b of the Residence Act) or because deportation is not possible for an extended period of time, the subsequent immigration of dependent family members is not permitted (Section 29 (3) third sentence of the Residence Act).

Relatives other than spouses or unmarried minor children may immigrate subsequently only if necessary to prevent unusual hardship (Section 36 (2) Residence Act).

According to the EU Directive on the right to family reunification, an exception from this rule applies for the parents of minors who are entitled to asylum or recognized as Convention refugees if a custodial parent is not yet in the federal territory (Section 36 (1) Residence Act).

4.4 Residence on humanitarian grounds

The Immigration Act has significantly improved measures for humanitarian protection.

Convention refugees and their family members

Victims of non-state and gender-specific persecution may be granted protection as refugees and subsequently issued residence titles. Gender-specific persecution is recognized as persecution due to membership of a certain social group when a person's life, freedom from bodily harm or liberty is threatened solely on account of his or her sex.

Persons entitled to asylum and Convention refugees initially receive a temporary residence permit; after three years, they may be eligible for a settlement permit if the necessary conditions still apply. After their 18th birthday, children of persons

entitled to asylum and Convention refugees whose status was recognized before 1 January 2005 may be granted a residence permit if

- they were not yet 18 when asylum was applied for,
- they have resided in Germany since the asylum application was finally approved and no longer subject to appeal,
- they can be expected to become integrated, and
- they have not committed any deliberate criminal offences in the past three years resulting in youth detention or a prison sentence of at least six months, or a fine equivalent to 180 daily rates (Section 104 (4) Residence Act).

Under the previous law, children who turned 18 during the asylum application process were not eligible for a residence title.

Subsidiary protection

If a foreigner cannot be deported due to the threat of torture, capital punishment, serious and concrete threat to his or her life, health or freedom, or on the basis of the European Convention on Human Rights, he or she is to be issued a residence permit unless it is possible or reasonable for the person to go to a different country, or if the person has violated obligations to cooperate or has committed human-rights violations or other serious crimes (Section 25 (3) of the Residence Act).

Temporary suspension of deportation; provisions governing the right to stay

If it is not possible to return a foreigner to his/her country of origin, his/her deportation is temporarily suspended. Such persons are not regarded as legally residing in Germany. As a rule, deportation is suspended only for a short time (three months). However, many of the affected persons end up living in Germany for years, resulting in a series of successive suspensions of deportation. The Residence Act discontinued this practice of successive suspensions for certain groups of people: Foreigners whose deportation is subject to a ban are entitled to a residence permit (Section 25 (3) Residence Act; see section on subsidiary protection, above). In addition, Section 25 (5) of the Residence Act offers the possibility of issuing a residence permit to persons subject to an enforceable order to leave the country, such as persons whose deportation has been temporarily suspended because their departure is impossible in law or in fact and will remain so for the foreseeable future (e. g. due to incapacity to

travel, disruption or non-existence of transport connections). However, this applies only if the foreigner is prevented from leaving the country through no fault of his or her own. Fault on the part of the foreigner consists of furnishing false information, deceiving the authorities with regard to his or her identity or failing to meet reasonable demands to remove the obstacles to departure. The practical application of the 2004 Immigration Act has shown, however, that the majority of persons whose deportation has been suspended are not eligible for a residence permit under Section 25 (5) of the Residence Act, either because they could leave the country voluntarily or because their inability to leave was their own fault.

At its meeting on 17 November 2006, the standing conference of Germany's federal and state interior ministers (IMK) addressed the issue of the large number of persons whose deportation had been suspended for many years and agreed that such persons who were also employed and thus had sufficient means to support themselves should be granted residence permits (Section 23 (1) Residence Act). Within the Act to Implement Residence- and Asylum-Related Directives of the European Union, which entered into force on 28 August 2007, this agreement was accompanied by a provision governing old cases (Sections 104 a and 104 b Residence Act) under which foreigners whose deportation has been suspended and who have lived in Germany for at least eight years, or at least six years if living in a household with one or more minor children, as of 1 July 2007; who demonstrate a minimum level of willingness to integrate and have not knowingly deceived the foreigners authorities will initially be granted a temporary right of residence, to expire on 31 December 2009, and equal access to the labour market. After 31 December 2009, the residence permit will be renewed only if the foreigner in question was employed for most of the previous two and a half years and if there is reason to believe that he/she is able to support him-/herself.

Persons who do not meet the conditions for issuing a residence permit will continue to be granted a temporary suspension of deportation if it is impossible in law or in fact for them to leave the country. Further, the amended Immigration Act also reintroduced the possibility of discretionary suspension of deportation as a means of fine-tuning by foreigners authorities.

After one year of residence as a person whose deportation has been suspended but who does not come under the provision governing old cases, foreigners are granted lower-priority access to the labour market; after four years they are granted equal access to the labour market. They will not be allowed to take up employment if they are responsible for hindering official measures to end their residence.

Hardship cases

The Residence Act now allows the supreme authority at state level to make an exception to the legal requirements for issuing and extending residence permits and grant residence permits to foreigners subject to an enforceable order to leave the country. They may do so only at the recommendation of a hardship commission. The German states (*Länder*) are solely responsible for setting up hardship commissions and determining their procedures, conditions for issuing permits or grounds for exclusion. The provisions on hardship cases do not create any individual legal entitlements.

Issuing residence permits to foreigners from certain countries and to certain groups of foreigners

The supreme authorities at state level may order residence permits to be issued to foreigners from certain countries or to certain groups of foreigners in accordance with international law, for humanitarian reasons or to uphold the political interests of the Federal Republic of Germany (Section 23 of the Residence Act), for example when deportation is suspended for more than six months (Section 60 a (1) of the Residence Act). Such orders may be applied to persons who have not yet entered Germany as well as those already residing here, such as foreigners whose deportation has been suspended for many years (see above, "Temporary suspension of deportation; provisions governing the right to stay"). It may also be applied independently to admit persons from regions affected by war or civil war. It may be made conditional on assuming the costs associated with admitting these persons (declaration of commitment). This measure is intended in particular to take into account the interests of those entities active in the humanitarian field, such as churches. In order to ensure nation-wide consistency, decisions on admitting groups of persons require the approval of the Federal Ministry of the Interior.

Entitlement to subsequent immigration by family members

Children of Convention refugees and of persons entitled to asylum may immigrate up to their 18th birthday. In all other cases of residence granted on humanitarian grounds, they may immigrate only up to their 16th birthday. However, children may immigrate after their 16th birthday if they enter the country with their parents, can speak German or appear able to become integrated into life in Germany. If a child is not entitled to immigrate to rejoin family members in Germany, special discretion may be applied to take into account the best interests of the child and the family situation.

Subsequent immigration of family members is not allowed when the family member in Germany has only a temporary residence permit for urgent humanitarian reasons. The same applies to foreigners subject to enforceable orders to leave the country who have been granted a residence permit because their departure is impossible in law or in fact and the obstacles to departure cannot be expected to disappear in the foreseeable future.

4.5 Allocation of foreigners who have entered the country illegally

The Immigration Act also introduced a provision according to which foreigners who have entered the country illegally, who do not submit an application for asylum and who cannot be deported immediately are to be allocated among the states (Section 15 a of the Residence Act). This procedure is based on the provisions for allocating asylum applicants. It is intended to evenly distribute the financial burden among the states.

5 Integration of migrants in Germany

5.1 Aims of integration

Germany has always attracted immigrants and will continue to do so in the future – perhaps to an even greater extent. With increasing globalization, immigrants today come from a wide variety of cultures, for many different reasons and with a broad range of educational and occupational qualifications and language skills.

This makes it all the more important to clearly define the requirements for long-term residence in Germany. The aim of integration should not be merely to organize the co-existence of people from different cultures. A society cannot long endure an internal divide based on cultural differences. Speaking the same language and accepting the basic values of the receiving society are basic requirements for maintaining societal cohesion. At the same time, immigrants must have the chance to take part in all aspects of social, political and economic life, on equal terms and as their individual conditions and willingness allow, thereby gaining a realistic hope of becoming part of German society.

The Federal Government's integration policy is based on the principle of offering more support for integration efforts while making requirements stricter. Immigrants are required to learn German, through their own efforts and with government help, and to know and respect the basic values of our society. And German society is called on to recognize and remove existing barriers in order to give immigrants equal treatment and equal access to all important areas of society, politics and the economy.

The Residence Act allows for and manages immigration with an eye to the Federal Republic's capacity for receiving and integrating foreigners. Integration is no longer simply social work, as in the past, but also migration management. The government offers basic integration measures open to all new immigrants, long-term foreign residents of Germany, ethnic German repatriates and EU citizens to support their own efforts to become a part of our society. The most important federal measure is the integration course, which foreigners are obligated to take under the conditions listed in the Residence Act (see also section 5.3.2 below).

5.2 Data on integration

Data on integration assistance

From the time the Immigration Act went into effect to the end of 2006, a total of 7,045 integration courses had been completed, with 1,954 taking place in 2005 and 5,091 in 2006. A total of 8,165 new integration courses started during 2006. During the same year, a total of 143,392 persons were issued proof of eligibility to take part in an integration course under Section 4 (1) of the Ordinance on Integration Courses (IntV). Of these, the Federal Office for Migration and Refugees (BAMF) admitted 58,383 persons to integration courses. In 2005, proof of eligibility was issued to 215,655 persons. The number of people enrolling in an integration course for the first time fell from 130,728 in 2005 to 117,954 in 2006, while the number of those completing a course rose from 31,478 in 2005 to 76,401 in 2006. Of those who started a course in 2006, 84.5 percent enrolled in a general integration course, 8.5 percent

in a course for women or parents, and 6.2 percent enrolled in a course combined with literacy training. Of the 76,401 persons who completed an integration course in 2006, 50,952 took the final examination resulting in the Zertifikat Deutsch language proficiency certificate and 36,599 (72 percent) of them passed the exam.

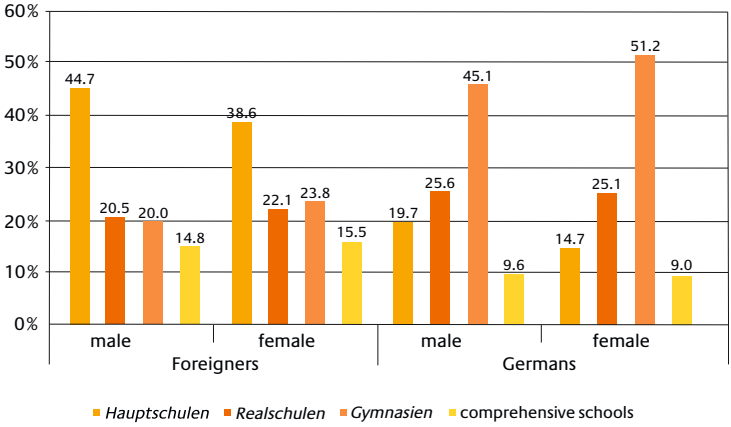
As of 31 December 2006, a total of 675 advisory agencies offered federally subsidized advising for new immigrants, serving between 50,000 and 60,000 immigrants each quarter in 2006.

Education

Foreign children and young people continue to be less successful in school than their German peers: Twice as many are enrolled in *Hauptschulen*, the lowest tier in Germany's multi-track school system, and less than half in *Gymnasien*, the highest tier, which qualifies pupils for university entrance. More than twice as many foreign youths drop out of school without finishing.

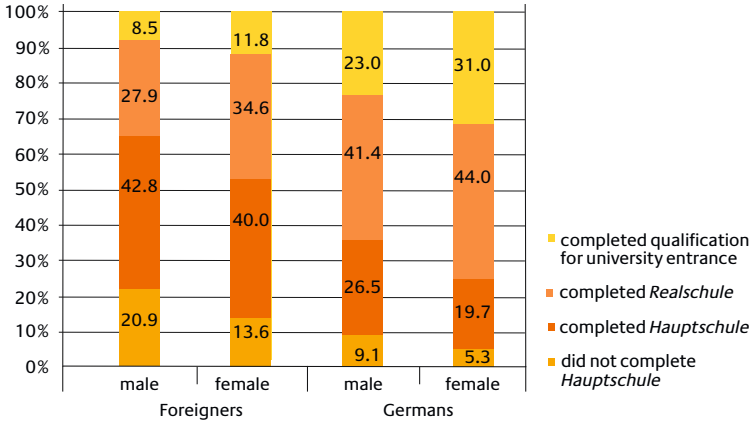
However, there are major differences between nationalities: For example, Polish and Russian pupils do significantly better than children and youths of other nationalities. And the situation improved slightly between 2000 and 2005: The number of foreign pupils enrolled in *Hauptschulen* fell, while the number enrolled in the two higher tiers, *Realschule* and *Gymnasium*, rose. But the same trend was seen among German pupils, so that differences between German and foreign pupils hardly narrowed and in some cases even increased.

Figure 11: Enrolment of German and foreign pupils in selected secondary schools in Germany, academic year 2005/06



Source: Federal Statistical Office: Statistics on schools of general education, Series 11: 1; own calculations and chart.

Figure 12: School completion by nationality and sex, Germany 2005



Source: Federal Statistical Office: Statistics on schools of general education, Series 11: 1; own calculations and chart.
Note: Percentages may not add up to 100 percent due to rounding.

Table 12: Occupational qualifications of persons aged 25 and over by sex and immigrant status, Germany 2005

	Persons without an immigrant background		Persons with an immigrant background	
	men	women	men	women
Completed education/ training	88.0 %	73.4 %	62.6 %	51.3 %
of which:				
internship/ preparatory year	1.4 %	2.3 %	3.0 %	2.4 %
apprenticeship or similar	54.6 %	50.4 %	37.5 %	30.1 %
professional degree	2.0 %	3.4 %	2.0 %	2.7 %
master craftsman/technician/ technical college	12.1 %	6.6 %	5.8 %	4.0 %
university of applied sciences	7.1 %	3.1 %	4.3 %	2.8 %
university	9.9 %	6.6 %	9.4 %	8.7 %
Did not complete education/training	12.0 %	26.6 %	37.4 %	48.7 %

Source: Federal Statistical Office 2007: Results of the 2005 micro census. Own calculations and table. The table refers to persons not currently in occupational training.
Note: The higher percentage of persons of immigrant background with university degrees can be attributed to two factors: First, some of these degrees were received abroad, and second, the data contain a disproportionate number of middle-aged university graduates from Poland and the former Soviet Union.

Occupational qualifications

Persons of immigrant background are much less likely to have completed formal occupational training or education than are non-immigrants. In particular, women of immigrant background often have few if any occupational qualifications. The number of foreigners aged 18 to 21 in vocational training is also significantly lower than that of their German peers. The number of Germans and non-Germans in this age group taking part in vocational training fell overall between 2000 and 2004, though the drop was more marked among foreign youths, especially males. In certain apprenticeships and trainee positions, the proportion of foreign youths is significantly higher than non-immigrant youths, especially in the case of young women.

Table 13: The ten most popular apprenticeship and trainee positions among foreigners in Germany, 2005

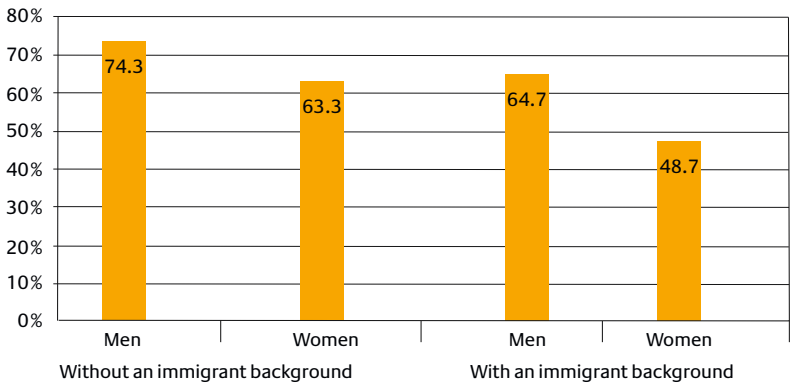
Source: Federal Statistical Office, Statistics on Occupational Training, Series 11: 3; own calculations and table.

	% of all foreigners training for this occupation	Foreigners as % of all persons training for this occupation	% of all Germans training for this occupation	Germans as % of all persons training for this occupation
Hairdresser	7.1	12.1	2.3	87.9
Retail sales clerk	6.5	6.1	4.5	93.9
Doctor's receptionist	5.6	8.9	2.6	91.1
Dental assistant	4.8	9.2	2.2	90.8
Car mechanic	4.7	4.2	4.9	95.8
Sales clerk	4.0	7.9	2.1	92.1
Trained clerical worker	3.7	4.1	3.9	95.9
Mechanic for sanitation, heating and ventilation systems	2.7	5.5	2.1	94.5
Office communications clerk	2.7	5.1	2.3	94.9
Industrial mechanic	2.6	3.3	3.4	96.7
All other occupations	55.7	3.3	69.6	96.7
Total	100.0	4.4	100.0	95.6

Employment and unemployment

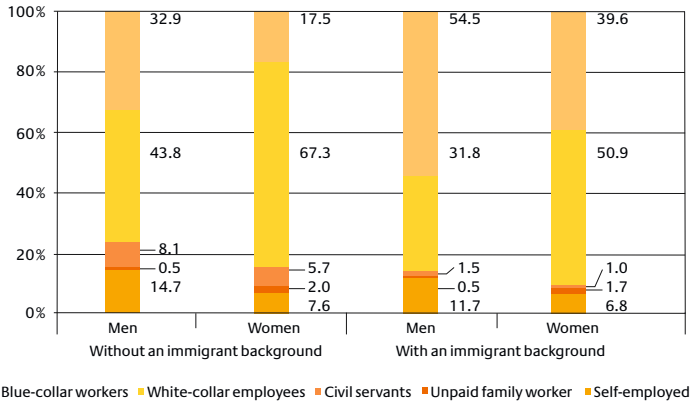
Among persons aged 16 to 65, those of immigrant background are less likely to be in paid employment than non-immigrants. The employment rate is especially low among women of immigrant background: Less than half of them are in paid employment. Further, those of immigrant background who are employed are more likely to be in low-wage jobs (part-time "mini-jobs" paying less than € 400 a month), especially women. In this group, one-fifth of those employed work only in low-wage positions. Fewer persons of immigrant background work in white-collar occupations; more are employed in blue-collar jobs and more often have a shift-work schedule than non-immigrant workers. The unemployment rate among both men and women of immigrant background is nearly twice as high as that among the non-immigrant population.

Figure 13: Employment rates among those aged 16 to 65 by sex and immigrant status, Germany 2005



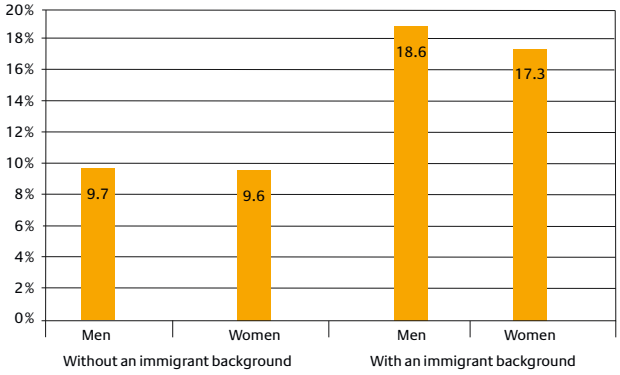
Source: Federal Statistical Office 2007: Results of the 2005 micro census. Own calculations and chart.

Figure 14: Type of employment by sex and immigrant status, Germany 2005



Source: Federal Statistical Office 2007: Results of the 2005 micro census. Own calculations and chart. Note: Trainees in business and technical occupations counted with white-collar employees; trainees in trades counted with blue-collar workers.

Figure 15: Unemployment rates by sex and immigrant status, Germany 2005



Source: Federal Statistical Office 2007: Results of the 2005 micro census. Own calculations and chart.

Income and dependence on social assistance benefits

Due to their higher rates of unemployment, persons of immigrant background are more often dependent on unemployment benefits than non-immigrants. They are also much more likely to receive social assistance or support from family members than non-immigrants. In particular, less than one-third of women with an immigrant background receive most of their income from paid employment; more than half of them receive most of their support from family members. On the other hand, persons of immigrant background are much less likely to be drawing pensions or retirement benefits than non-immigrants due to differences in the age composition of the two groups.

Figure 16: Major sources of income by sex and immigrant status, Germany 2005

Source: Federal Statistical Office 2007: Results of the 2005 micro census. Own calculations and chart. Note: Because income from capital, rents, interest, long-term care insurance benefits and other (e.g. student aid) accounted for a very small percentage of overall income, it was not included here. As a result, the figures do not add up to 100 percent.

5.3 Federal support for integration

5.3.1 Responsibilities within the Federal Government

Federal Ministry of the Interior

The integration of new immigrants and foreigners who are long-term legal residents of the Federal Republic is a Federal Government priority and a task in which numerous federal ministries are involved. Within the Federal Government, the Federal Ministry of the Interior is responsible for integration. The Federal Ministry, which also oversees policy on migration and refugees, is responsible for the following:

- the coordination of federal integration measures,
- integration courses,
- a nation-wide integration programme,
- advising for new immigrants,
- support for general and targeted projects.

Additional, specific integration tasks are overseen by other ministries, such as the Federal Ministry of Labour and Social Affairs, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, and the Federal Ministry of Education and Research. As part of its responsibility for labour market policy, the Federal Ministry of Labour and Social Affairs helps adults of immigrant background become integrated within the labour market.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth offers special advisory services for immigrants and ethnic German repatriates under age 27. There are about 375 offices for youth migration services nation-wide which help young immigrants optimize the integration process before, during and after their integration courses. These offices also provide help with integration-related crises.

The Federal Ministry of Education and Research promotes activities targeted at improving support for language learning. These include developing procedures for assessing language skills, helping improve language teachers' diagnostic capacities and conducting scientific studies of measures to promote language use. The JOBSTARTER programme to increase the number of apprenticeships offered and the Coordination Office for Training in Foreign-Owned Companies (KAUSA) promote activities to improve the vocational training situation for young people with and without an immigrant background. The activities to promote disadvantaged youth place special priority on promoting young people of immigrant background.

Another priority is helping highly skilled immigrants find suitable jobs with help from the AQUA programme for university graduates run by the Otto Benecke Foundation.

Commissioner for Migration, Refugees and Integration

The Federal Government appoints the Commissioner for Migration, Refugees and Integration, who is responsible for assisting and advising the Federal Government on further developing its integration policy and promoting the co-existence of Germans and immigrants. The Commissioner is autonomous in carrying out his/her duties, which are defined in Section 93 of the Residence Act. The most important of these is promoting the integration of immigrants living in Germany. The Commissioner supports the Federal Government in further developing its integration policy. The work of the Commissioner helps create the conditions in which Germans and immigrants can live and work together in harmony. The Commissioner works to overcome unjustified differences in the treatment of immigrants and advises on naturalization issues.

The Federal Government Commissioner for Matters Relating to Repatriates and National Minorities

The Commissioner's main tasks are as follows:

For ethnic German repatriates:

- serving as the main contact person at federal level,
- coordinating measures related to ethnic German repatriates, in particular
  - the processing of admissions under Section 26 of the Federal Expellees Act (BVFG), including the granting of German citizenship as defined in Section 15 of that Act;
  - federal, state and local integration measures as well as activities by churches, welfare associations and other social advocacy groups;
  - assistance for the German minorities in their home countries and co-chairing existing government commissions with the titular states for the affairs of the relevant minority;
  - information campaigns in Germany and among the German minorities in their home countries.

For the national minorities:

- serving as the main contact person at federal level,
- representing the Federal Government within existing and possible future contact bodies,
- conducting public information activities regarding national minorities in the Federal Republic of Germany.

Inter-ministerial working group on integration

The Federal Ministry of the Interior coordinates federally supported measures as part of a general inter-ministerial strategy to improve the integration of immigrants. Within the Federal Government, the coordinating body is the Inter-Ministerial Working Group on Integration, chaired by the Federal Ministry of the Interior.

The Inter-Ministerial Working Group is responsible for monitoring the impact of these measures in order to further improve the effectiveness and sustainability of federal integration measures. The results of this monitoring are used to assess the integration courses and nation-wide integration programme.

5.3.2 Integration courses

The core element of federal measures is the integration course with a total of 645 hours of instruction, consisting of a language course (600 hours) to provide participants with sufficient German skills and an orientation course (45 hours) to familiarize participants with Germany's history, culture and legal system. The Ordinance on Integration Courses specifies the provisions of the Immigration Act in order to ensure that the integration courses conform to a nation-wide standard. Earlier federal support for language courses was spread across three ministries and drew distinctions between foreigners and ethnic German repatriates ("late repatriates") and between legal entitlement and discretionary participation, whereas the integration courses introduced in 2005 take support for integration to a new level of quality. The federal budget allocated € 140.8 million in the 2007 financial year for carrying out integration courses and € 154.8 million annually starting in 2008. This represents an important investment in our country's future.

The key framework conditions for the integration courses are as follows:

- The same courses are offered to foreigners, ethnic German repatriates and EU citizens. German citizens with special integration needs may also participate in integration courses if they do not have sufficient language skills.

- In order to meet individual participants' needs, the language courses have a modular structure made up of six course units, allowing learners to proceed at their own pace. Special integration courses are offered for young people, women and those who are illiterate in their native language. Moving away from standardized lesson plans and introducing specially tailored courses has made course offerings more flexible, thereby addressing special language training needs.

- The language courses are designed to provide participants with adequate proficiency, the equivalent of level B1 in the Common European Framework of Reference for Languages, which is the first level of independent language use. This allows immigrants to deal on their own with everyday situations, to conduct conversations and express themselves in writing appropriate to their age and education.

- The orientation course is intended to give immigrants an understanding of the system of government and public administration in Germany, in particular the significance of the free and democratic order, the party system, Germany's federalist structure, the welfare system, equal rights, tolerance and religious freedom. The aim is to help immigrants find their way more easily within the new society and offer them something with which they can identify.

- Tests in the language and orientation courses provide evidence of successful participation in the integration course.

The integration courses were evaluated in 2006 and the evaluation results were incorporated into the Federal Government's report on the implementation and financing of the courses, which it presented to the German Bundestag on 1 July 2007. The central message of this progress report was that the integration courses represent a significant qualitative improvement in German integration policy. The Federal Government's progress report on the integration courses, the report's recommendations for improvements and the amendments made by the Act to Implement Residence- and Asylum-Related Directives of the European Union laid the groundwork for the Ordinance Amending the Ordinance on Integration Courses, which entered into force in late 2007.

The amending ordinance implements the following recommendations for improvement from the evaluation:

- In order to increase the success rate, the ordinance introduces greater flexibility on hours of instruction up to a maximum of 1,200 subsidized course hours, as well as the possibility to repeat.

- Integration courses targeted at young people and women, and courses for illiterates and persons with special language teaching needs may include up to 900 hours of instruction in the language component.

- Intensive courses enable participants who can complete the course objectives in less than the standard 645 hours of instruction to finish the integration course in only 430 hours.

- The orientation course will be upgraded by introducing a nationally standardized test and increasing the hours of instruction to 45.

- To increase participants' motivation to learn, financial incentives in the form of partial reimbursement for successful completion will be created.

- Rules on course participation will be changed so that regular enrolment also includes taking an examination. Starting 1 January 2009, a language test will be introduced which will indicate the proficiency level attained on a scale from A2 to B1 according to the Common European Framework of Reference for Languages.

- Persons obligated to take an integration course and who are receiving benefits in accordance with Book II of the Social Code or for whom the mandatory course fee has been waived will also be reimbursed for their travel expenses. Further, persons obligated to take a course may be granted a stipend to cover their travel expenses.

- The ordinance also provides significant relief for course providers by reducing the number of routine reports required and replacing them with reports as needed. And in line with the principle of offering help but expecting more in return, the ordinance also places more emphasis on the duties and obligations of course participants.

Table 14: Key data on the integration course

Source: Federal Office for Migration and Refugees (BAMF)

Eligibility	2005	2006	2007	Total
Total eligible	215,596	140,939	141,591 1)	498,587
New immigrants of which required to enrol	64,400 45,159	59,312 44,235	52,303 39,221	176,015 128,615

Participants	2005	2006	2007	Total
Total participants*	130,735	121,580	114,365 2)	366,680
of which new immigrants required to enrol	21,270	34,043	35,375	90,688

* Of these, roughly 50,000 are no longer active course participants; these are participants who attended one or more modules of an integration course without having completed an orientation course.
1) Plus 461 repeating.
2) Plus 142 repeating.

Tables 15 to 17: New immigrants required to take an integration course and those newly enrolled in a course

Source: Federal Office for Migration and Refugees (BAMF)

Table 15: 2005

Rank	Nationality	No. of new immigrants required to enrol	No. of new enrollees
1	Turkey	7,381	4,164
2	Russian Federation	5,880	4,030
3	Ukraine	2,156	1,401
4	Kazakhstan	1,988	1,430
5	Serbia and Montenegro	1,543	707
6	Thailand	1,021	524
7	Morocco	762	403
8	Vietnam	682	303
9	Romania	575	285
10	Bosnia and Herzegovina	563	309
11	other nationalities	22,608	21,270
Total		**45,159**	**34,826**

Table 16: 2006

Rank	Nationality	No. of new immigrants required to enrol	No. of new enrollees
1	Turkey	7,555	7,159
2	Russian Federation	3,425	3,899
3	Thailand	1,224	1,176
4	Ukraine	1,139	1,310
5	Serbia and Montenegro	1,071	1,282
6	Kazakhstan	975	1,175
7	Morocco	964	871
8	Serbia	939	504
9	Vietnam	698	560
10	Bosnia and Herzegovina	690	624
11	other nationalities	25,555	15,483
Total		**44,235**	**34,043**

Table 17: 2007

Rank	Nationality	No. of new immigrants required to enrol	No. of new enrollees
1	Turkey	5,534	7,978
2	Russian Federation	2,402	3,121
3	Ukraine	1,159	1,360
4	Serbia	981	1,376
5	Thailand	954	1,267
6	Morocco	786	1,108
7	Iraq	719	693
8	Vietnam	590	702
9	Kazakhstan	527	716
10	Iran	453	584
11	other nationalities	25,116	16,470
Total		**39,221**	**35,375**

5.3.3 Migration advising services

Since 1 January 2005, the Federal Ministry of the Interior has been responsible for overseeing advisory services for new immigrants. The focus of advising services is on initiating and assisting with the integration process through professional, individual case management. The advising services help immigrants identify their skills, draw up a plan of assistance which takes these skills into account, and achieve the objectives in the plan. The advising services for new immigrants are intended to help the regular social services provide targeted assistance later on.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is responsible for overseeing advisory services for young immigrants. The youth advisory services provide local advising.

5.3.4 Public information service

Providing and sharing information is essential for integration efforts to be successful: One must be aware of opportunities in order to take advantage of them. The task of providing information about federal, state and local integration resources for immigrants is therefore regulated by law and has been delegated to the Federal Office for Migration and Refugees (BAMF). The BAMF seeks and encourages dialogue with immigrants and uses various forums to promote the exchange of information with those in the field and actors involved in integration efforts in Germany.

Information on offer includes a broad range of publications, from brochures and flyers targeted at the relevant groups, to language instruction, advising for new immigrants and project funding, to publications on specific issues aimed at the interested public. The centrepiece is the brochure *Willkommen in Deutschland – Erstinformation für Zuwanderer* (Welcome to Germany: Basic information for immigrants) intended as general background for new immigrants during their first few weeks in Germany. The brochure offers numerous helpful tips and contact addresses for all important areas of daily life. The newsletter *Blickpunkt Integration* (Focus on integration) reports on the latest developments concerning integration efforts in Germany, and the journal *Deutsch als Zweitsprache* (German as a second language) promotes the exchange of expert information in this field.

Since June 2007, fast and in-depth information on all aspects of integration has also been available on the Internet at www.integration-in-deutschland.de. This multilingual website allows those interested in moving to Germany to find out more about integration resources before leaving their home country. The website addresses the target groups of immigrants, actors involved in integration efforts and the interested public, offering a wealth of information tailored to their different needs. A web-based geoinformation system (WEB-GIS) with dynamic maps helps site visitors search for integration courses, advising officers for new immigrants and much more – a perfect way to find out about integration resources anywhere in Germany. For further information, the BAMF information service responds quickly and competently to telephone and e-mail enquiries about integration and migration (see Annex III for addresses and telephone numbers).

5.3.5 Integration of women immigrants

Women play a key role in the successful integration of their families. Due to their background, religion or social status in their country of origin, however, many women are unable to participate in the standard integration measures. To do justice to their importance for the integration process and to support immigrant women and girls in their role as intermediaries between family and society, special courses for women are offered which combine different programme components developed specifically for women. In coordination with the federal support measures, these are offered ahead of the integration courses and are intended as an introduction to further integration measures such as language and orientation courses and migration advising (advising for new immigrants, youth advising).

5.3.6 Additional projects

The Federal Government funds projects to promote the social integration of immigrants with long-term residence status. These projects concentrate on strengthening ties to the local community, preventing violence and drug/alcohol dependency, managing conflict, reinforcing existing skills, and enhancing mutual acceptance and co-existence between immigrants and non-immigrants. These community-based projects stress the importance of networking and cooperation between all actors involved in the integration process and of promoting civic engagement. That means: active participation by immigrant organizations and joint efforts by immigrants and non-immigrants.

5.4 Dialogue on integration

5.4.1 The National Integration Plan

The National Integration Plan creates a new foundation for integration policy in Germany: Every level of government – federal, state and local – as well as representatives of civil society and immigrants agreed on a sustainable integration policy.

Germany today is home to about 15 million people with an immigrant background. Their integration is a central task for all of society. Many immigrants have long found their place in German society. But some have problems integrating: Many do not speak enough German, don't do as well in school or vocational training and are more likely to be unemployed.

With this in mind, Federal Chancellor Angela Merkel hosted the first National Integration Summit on 14 July 2006. This launched a broad-based dialogue on how to move integration forward. At the second Integration Summit, on 12 July 2007 Chancellor Merkel presented the National Integration Plan, which focuses on the following priorities: improving the integration courses; promoting early language learning; education, training and the labour market; the situation of girls and women; local integration; integration and civil society. In various working groups, summit participants discussed where action was needed. The National Integration Plan sets precise goals and lists more than 400 concrete measures and voluntary obligations of government and non-government actors. [9]

[9] Progress on implementing the National Integration Plan will be evaluated in autumn 2008 (www.bundesregierung.de/Content/DE/Artikel/2007/07Anlage/2007-07-12-nationaler-Integrationsplan).

5.4.2 The German Islam Conference

Germany today is home to about 3.4 million Muslims, most of whom are well integrated into German society. Nevertheless, problems with integration in economic/cultural and religious life and involvement in Islamist activities increasingly pose difficulties for co-existence. A lack of education among Muslim immigrants and their difficulties on the job market, social and emotional isolation above all of young second- and third-generation Muslims and the associated risks of developing so-called parallel societies led the Federal Minister of the Interior to initiate the German Islam Conference as a long-term process of dialogue involving representatives of the German government and of Muslims living in Germany. The German Islam Conference (DIK) took up its work on 27 September 2006; since then, it has met regularly in plenary session, in three working groups and a round table. Taking part in the meetings are representatives of the federal, state and local governments as well as representatives of Muslim organizations and of the wide variety of Muslims in Germany who are not affiliated with any Muslim organizations. In the DIK, the Federal Government, along with the state and local governments, has created an institutional forum for intercultural dialogue and a framework in which to nurture relations between the German state and Muslims in Germany. The conference sends a message of greater mutual understanding. Acknowledging, addressing and overcoming conflicts in partnership with Muslims, the DIK also makes an important contribution to preventive security policy. It helps prevent both violent and legalistic

Islamist activities, thereby helping to preserve the security and freedom of everyone in Germany regardless of their faith. At European level, the German Islam Conference is part of a forum for sharing information and experience on intercultural dialogue, initiated by the Federal Government during its EU Presidency in 2007.

5.4.3 Nation-wide integration programme

The Immigration Act provides for a nation-wide programme intended to better coordinate integration measures offered at the federal, state and local levels and to create a framework for needs-based, effective and sustainable support for integration. The Federal Office for Migration and Refugees (BAMF) is responsible for developing the integration programme.

As mandated by law, the integration programme is intended to identify existing integration resources for foreigners and ethnic German repatriates ("late repatriates") provided by the federal, state and local governments and by private organizations, and to make recommendations for their further development. For the first time, a long-term process to develop the quality of integration resources has been launched with the aim of improving practical integration efforts by involving the key actors. In addition to the federal, state and local governments, the churches, trade and labour unions, employers' associations, voluntary welfare organizations and other social advocacy organizations will also be involved in drafting the integration programme. In particular, immigrant self-help organizations are an important partner in this effort.

At the heart of the nation-wide integration programme lies the overall process of integration, concentrated on four key areas of action:

- language education,
- education in general,
- occupational integration, and
- integration in society.

Additional, interdisciplinary issues such as ensuring sustainability and quality, evaluation, intercultural openness and civic engagement are also important. The actors involved in integration efforts will help draw up praxis-based and results-oriented strategies for further developing these areas of action.

The first area of action in the integration programme is language education. The actors mentioned above will draft joint recommendations and implementation strategies concerning the areas of language pedagogy in early childhood and at school, language education at the transition between school and work (work-related language education), language pedagogy for and in higher education, and the assessment of language pedagogy resources. This will be followed by the second area of action, occupational integration.

5.5 Immigrants' voting rights and opportunities for participation

Article 20 (2) of the Basic Law gives the people the right to vote. According to established rulings by the Federal Constitutional Court, this refers to the *Staatsvolk*, or community of German citizens; non-citizens in principle have no right to vote.

European elections are one exception: EU citizens living in Germany, i. e. citizens of an EU Member State, have the right to vote and run for office in these elections. This is based on Section 6 (3) and Section 6 b (2) of the Act on the European Elections, which transposed into German law Article 19 (2) of the Treaty establishing the European Community as well as Council Directive 93/109/EC of 6 December 1993.

Another exception is the right of EU citizens to vote in local elections. According to Article 28 (1), third sentence, of the Basic Law, EU citizens are also eligible to vote and to be elected in county and municipal elections in accordance with European Community law.

This rule is based on European Community law and was introduced by authority of the Act of 21 December 1992 Amending the Basic Law (Federal Law Gazette I, p. 2086). Article 19 (1) of the Treaty establishing the European Community and Council Directive 94/80/EC of 19 December 1994 guarantee all EU citizens residing in a Member State of which they are not nationals the right to vote and to stand as a candidate in municipal elections under the same conditions of eligibility as apply to citizens of the Member State in question.

With its 2000 reform of nationality law, the Federal Government made it much easier for foreigners born in Germany and those who have lived here for many years to become German citizens. It is therefore easier to gain the right to vote through naturalization.

Apart from voting, foreigners have a wide range of opportunities to become involved at the local level, for example in clubs, citizens' initiatives, trade and labour unions, schools, etc.

Ballot for the election of the European Parliament.

6 Acquiring German citizenship

6.1 General information

For many immigrants who have long been legal residents of Germany, having German citizenship and being able to vote and participate fully in German society represents full integration. Immigrants can acquire German citizenship through naturalization, which thus often marks an important milestone in a longer process of integration. By law, their children acquire German citizenship at birth, in accordance with the principle of descent from a German parent. If such children acquire the citizenship of another country at birth, they are free to give it up.

As of 1 January 2000, children born in Germany to non-German parents automatically acquire German citizenship at birth according to the principle of citizenship by place of birth (*jus soli*) which went into effect on that date. The prerequisite is that at least one parent has lived legally in Germany for at least eight years and has the right of permanent residence. By the end of 2006 approximately 270,352 children of non-German parents had acquired German citizenship in addition to that of their parents (see Table 7) in this way. However, in such cases the child must choose between German citizenship and the citizenship of his/her parents before reaching the age of legal majority. If the child chooses German citizenship, he or she must give up his or her foreign citizenship, unless it is impossible or unreasonable to do so. If the child chooses the foreign citizenship, by law he/she loses his/her German citizenship. The child must make this choice before his or her 23rd birthday.

Children naturalized under the transitional provision in Section 40 b of the Nationality Act (StAG) are also required to make this choice; under this provision, which expired on 31 December 2000, children up to the age of 10 who were born before 1 January 2000 and who would have fulfilled the conditions of *jus soli* at birth under Section 4 (3), first sentence of the Nationality Act, are also to be naturalized upon application.

Basic Law of the Federal Republic of Germany and programme of a ceremony for persons becoming naturalized German citizens.

6.2 Naturalization procedures

Immigrants who wish to become naturalized German citizens must fulfil the general requirements for naturalization under the Nationality Act (StAG) as last amended by the Act to Implement Residence- and Asylum-Related Directives of the European Union of 19 August 2007, which entered into force on 28 August 2007. Prior to that amendment, the Nationality Act incorporated the provisions on naturalization from the earlier Foreigners Act. The terminology was revised in line with the residence provisions in the new Residence Act; since the Immigration Act entered into force on 1 January 2005, most of the provisions on acquiring German citizens can now be found within a single law.

Immigrants are eligible for naturalization after having lived legally in Germany for eight years (Section 10 (1) Nationality Act), if they have permanent residence status recognized for the purpose of naturalization, and declare their allegiance to the free and democratic order and that they neither pursue nor support any activities opposed to this order. Further, they must be able to support themselves and their

family members and cannot have been convicted of a crime. Spouses and minor children may be naturalized at the same time, even if they have resided in the federal territory for less than eight years (Section 10 (2) Nationality Act).

Becoming a naturalized German citizen also requires renouncing one's previous citizenship. However, legislation expressly provides for legal exceptions. This requirement is waived if the foreigner is unable to give up his or her previous citizenship, or can do so only under very difficult conditions (Section 12 (1) Nationality Act), for example, if the law of the foreigner's country of origin does not allow for

Woman with a naturalization certificate.

releasing its nationals from their citizenship (Section 12 (1) no. 1 Nationality Act), or if the country of origin regularly refuses to release its nationals from their citizenship (Section 12 (1) no. 2 Nationality Act). Refugees and victims of political persecution are usually not required to apply to their countries of origin in order to give up their citizenship. In addition, since 28 August 2007 nationals of other Member States of the European Union and of Switzerland are generally exempt from having to renounce their previous citizenship in accordance with the revised Section 12 (2) Nationality Act.

However, naturalization does require sufficient knowledge of the German language. Immigrants who successfully complete an integration course are eligible for naturalization after only seven years of legal residence, and completion of the course serves as proof of having attained the necessary level of language proficiency. Following amendments in the Act to Implement Residence- and Asylum-Related Directives of the European Union, immigrants demonstrating evidence of integration achieved, in particular evidence of language proficiency exceeding the required level B1 in the Common European Framework of Reference for Languages, may be eligible for naturalization after only six years of legal residence.

Effective 1 September 2008, applicants for naturalization must also pass a naturalization test intended to demonstrate that they have sufficient knowledge of the legal system, society and living conditions in Germany (Section 10 (5) Nationality Act).

A special clause prevents extremist foreigners from becoming naturalized German citizens. Security requirements were already revised in accordance with the Counter-Terrorism Act of 9 January 2002 and the Immigration Act of 30 July 2004. For example, the naturalization authorities regularly check with the authorities for the protection of the constitution to find out whether an applicant for naturalization has any record of anti-constitutional activities.

Further, foreigners who are legal residents of Germany may become naturalized citizens at the discretion of the responsible authorities (Section 8 Nationality Act). As a rule, spouses and domestic partners of Germans (Section 9 Nationality Act) may become naturalized citizens after three years' residence in Germany and at least two years of marriage or domestic partnership. Former German nationals living abroad and their minor children may be naturalized (Section 13 Nationality Act) as, under exceptional circumstances, may foreigners living abroad.

A German citizen who (re-)acquires a foreign citizenship will lose his or her German citizenship (Section 25 (1) Nationality Act), unless the responsible authority has granted permission to retain German citizenship before foreign citizenship is acquired (Section 25 (2) Nationality Act). Since the Act to Implement Residence- and Asylum-Related Directives of the European Union entered into force on 28 August 2007, a German who acquires the citizenship of another EU Member State, of Switzerland or of a country with which the Federal Republic of Germany has signed a treaty under Section 12 (3) of the Nationality Act will no longer lose his or her German citizenship. The Federal Republic of Germany has not yet signed any treaties of this kind with countries outside the EU, however.

6.3 Naturalization since the reform of nationality law

The Act to Amend the Nationality Law of 15 July 1999 entered into force on 1 January 2000. From that date until the end of 2006 roughly 1,029,000 foreigners took advantage of their right to become naturalized German citizens. In the year 2000 alone, 186,688 persons became naturalized citizens, representing an increase of 30.3 percent over the previous year. That growth resulted from the easing of numerous requirements, such as reducing the length of residency to eight years and making it easier for certain groups to become naturalized citizens, such as persons entitled to asylum, etc. Since then, the number of naturalizations dropped and has now stabilized at a generally higher level. In 2006, the number of naturalized citizens showed a slight rise of 6.2 percent, bringing the total for the period 2000–2006 to just over 1 million (see Table 18).

Table 18:
Naturalized citizens in Germany, 2000 to 2006

Source: Federal Statistical Office, 30 August 2007

Year	Persons naturalized
2000	186,688
2001	178,098
2002	154,547
2003	140,731
2004	127,153
2005	117,241
2006	124,566
Total	**1,029,024**

6.4 European Convention of 6 November 1997

At the international level, Germany has declared its willingness to uphold European standards in the area of nationality law by signing and ratifying the European Convention on Nationality of 6 November 1997. The necessary ratifying legislation entered into force on 19 May 2004. Germany is now one of 16 Council of Europe member states which have already implemented the 1997 Convention in national legislation. The Convention is intended to harmonize European nationality law.

7 Ethnic German repatriates from Eastern Europe and the former Soviet Union

7.1 Introduction

A special group of immigrants to Germany is that of "late repatriates" (*Spätaussiedler*), or ethnic Germans from the former Soviet Union and Eastern Bloc countries. Following World War II, ethnic Germans in these areas faced persecution and serious discrimination for decades after the war's end. Solidarity with this group of people is anchored in Article 116 (1) of Germany's constitution, the Basic Law. According to this article, a German is someone who was allowed to enter Germany as a refugee or expellee of German ethnic origin or as the spouse or descendant of such a person. This provision was given more concrete form by the Federal Expellees Act of 19 May 1953 (BVFG) which, unlike residence law, is not a tool for managing immigration but rather for dealing with the consequences of war.

When the Federal Expellees Act was passed, the situation was still marked by the immediate aftermath of World War II and an enormous flood of refugees. These refugees, who had to leave their homes in the former territory of the Reich east of the Oder and Neisse rivers and in eastern and southern Europe immediately after the war, have long been integrated. As the years passed, the focus shifted to another group of people: increasing numbers of ethnic Germans from Eastern Europe and, starting in 1993, from the former Soviet Union, who suffered special hardships due to their German ethnicity and thus had decided to leave their home countries. These numbers jumped in the mid-1980s due to increasing democratization which made it easier for Eastern Europeans to emigrate. The Repatriate Admission Act of 28 June 1990 therefore introduced a formal procedure for admitting these immigrants.

The numbers of arriving ethnic German repatriates have fallen steadily since the mid-1990s; 2006 was the first year in which fewer than 10,000 ethnic German repatriates or their family members entered Germany. This trend can be attributed to the declining importance of classic motives for emigration, such as the desire for family reunification, and to the improved situation of the German minorities in their home regions as well as to repeated changes in the legal framework conditions over time.

The Friedland transit camp.

7.2 Admission procedures

Since the Repatriate Admission Act of 28 June 1990 (Federal Law Gazette I p. 1247) entered into force on 1 July 1990, immigration under the law concerning expellees is possible only if persons wishing to immigrate apply to the Federal Office of Administration (BVA) before leaving their home country, and the Federal Office determines that the necessary conditions for admission have been fulfilled and issues a notice of admission. After such persons arrive in Germany, their legal status is determined as part of the process of being granted citizenship.

Only in exceptional cases is it possible for persons to be issued an admission notice after they have left their home country and arrived in the federal territory. Under Section 27 (2) of the Federal Expellees Act the admission notice may be issued after the fact in cases of special hardship, if the remaining conditions are fulfilled. Special hardship is defined as a case in which, due to special circumstances, it would be unreasonable to expect a person to remain in his/her home country while awaiting the decision.

The Federal Act for the Settlement of Consequences of War (KfbG) of 21 December 1992 (Federal Law Gazette I p. 2094) overhauled the conditions for admission in

the Federal Expellees Act: The admission of ethnic German repatriates from the earlier wave of immigration under Section 1 (2) no. 3 of the Federal Expellees Act (*Aussiedler*) was completed and replaced by the admission of the later wave of ethnic German repatriates (*Spätaussiedler*) under the new Section 4 of that Act; at the same time, admission under law concerning expellees was gradually phased out. Under Section 4 (1) no. 3 of the Act, no one born after 31 December 1992 can be considered a *Spätaussiedler*. Persons born before this cut-off date may be *Spätaussiedler* if

- they left the regions listed in the Federal Expellees Act after 31 December 1992 within the framework of the admission procedure and established permanent residence in the federal territory within six months;
- suffered discrimination as a result of World War II;
- are of ethnic German origin; and
- do not personally satisfy any of the grounds for exclusion under Section 5 of the Federal Expellees Act.

In the case of applicants from the territory of the former Soviet Union, discrimination as a result of World War II is assumed by law (see Section 4 (1) Federal Expellees Act). By contrast, applicants from other regions (mainly Eastern European countries) must present plausible evidence of discrimination on or after 31 December 1992 based on their German ethnicity or the continued impact of earlier discrimination (see Section 4 (2) Federal Expellees Act). Since the entry into force of the 7th Act to Amend the Federal Expellees Act (7. BVFGÄndG) of 16 May 2007 (Federal Law Gazette I p. 748), this also applies to persons from Estonia, Latvia and Lithuania; the new law thus takes into account the fact that these countries joined the European Union on 1 May 2004.

Section 6 of the Federal Expellees Act addresses the question of whether a person is of ethnic German origin. In its version following the Act on the Status of *Spätaussiedler* (SpStatG) of 30 August 2001 (Federal Law Gazette I p. 2266), the Federal Expellees Act distinguishes between persons born on or before 31 December 1923 and those born thereafter. Section 6 (1) of the Act applies to the former: They are considered ethnic Germans if in their home country they have identified with the German ethnic community as confirmed by certain indications, such as heritage, (German) language, upbringing and culture.

Section 6 (2) of the Federal Expellees Act applies to those born after 31 December 1923: They are considered ethnic Germans if they are descended from a German citizen or ethnic German, if they have continuously identified with the German ethnic community before leaving their home country (or were defined by the law of their home country as belonging to the German ethnic group), and this identification (or membership) is confirmed by German language skills transmitted within the family. Such language skills are confirmed only if the applicant is still able at the time of the authorities' decision on the admission application to conduct at least a simple conversation in German learned within the family. The requirements such a conversation must fulfil were specified by high court decision (see Federal Administrative Court of 4.09.2003 – 5 C 11.03 and 5 C 33.02): The applicant must be capable of conversing in complete sentences about simple subjects related to the family sphere, everyday situations and needs, or work or an occupation; simple sentence structure and a limited vocabulary are sufficient. The conversation must consist of a reasonably fluent exchange of statements and responses. The applicant may ask for further clarification if he/she has not understood a statement; he/she may seek the right word, speak haltingly or make errors in sentence structure, word choice and pronunciation if the nature and quantity of such errors is not an impediment to comprehension.

Since 1997, all applicants have been interviewed in their home countries to determine whether they meet the language requirements. Before these language tests were introduced, it was often impossible to verify the language proficiency described by applicants and their chosen references after the applicants entered Germany.

No admission notice can be issued if there are grounds for exclusion under Section 5 of the Federal Expellees Act. According to this provision, no one may be granted the legal status of *Spätaussiedler* who has not faced discrimination as a result of World War II or who does not deserve such status for having done the following in his/her home country:

- significantly aided the cause of National Socialism or another dictatorship, or
- acted in violation of the principles of humanity and the rule of law, or
- seriously misused his/her position to his/her own advantage or to the disadvantage of others,

- left his/her home country due to pending prosecution of a criminal offence, or
- in his/her home country held a position that was important generally or in the specific case for maintaining communist rule, or
- lived in a household for at least three years with a person who held such a position.

The 7th Act to Amend the Federal Expellees Act expanded the grounds for exclusion, which now cover in particular

- persons who have committed serious violations of the law, according to the standards of German criminal law, and
- violent extremists, terrorists or terrorist supporters.

In order to determine whether applicants fulfil these new grounds for exclusion, the Federal Office of Administration is required to consult the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counterintelligence Service, the Federal Criminal Police Office and the Central Office of the German Customs Investigation Service when processing admission applications.

7.3 Spouses and descendants who are not ethnic Germans

If applicants meet all requirements for admission, they are issued a notice of admission. Upon request, the admission notice may also be extended to cover their spouses and descendants if the conditions listed in Section 27 (1) second sentence of the Federal Expellees Act for the purpose of joint emigration are fulfilled. The Act does not limit the number of generations within the nuclear family, so grandchildren may also be included.

Because such inclusion is intended for the purpose of joint emigration, it must be carried out before the principal applicant leaves the home country. According to Section 27 (2) of the Federal Expellees Act, if all other requirements are met, spouses and descendants may rejoin a principal applicant already in the federal territory in cases of special hardship. Special hardship is defined as a case in which, due to special circumstances, it would be unreasonable to expect the applicant to remain in his/her home country while awaiting the decision.

The Immigration Act of 30 July 2004 (Federal Law Gazette I p. 1950), which entered into force on 1 January 2005, revised the requirements for the admission of spouses and descendants listed in Section 27 (1) second sentence of the Federal Expellees Act. Since then, an admission notice may be extended to cover such family members only at the principal applicant's explicit request. This reflects the accessory nature of including spouses and descendants, which is not intended to give them special preference but to remove obstacles to emigration for the principal applicant.

The admission notice may be extended only to such persons who do not fulfil any of the grounds for exclusion in Section 5 of the Federal Expellees Act. In addition, spouses have to have been married to the principal applicant for at least three years, and spouses and descendants must demonstrate basic knowledge of German, the equivalent of level A1 in the Common European Framework of Reference for Languages. This level of proficiency may be demonstrated by presenting the Goethe Institute's "Start Deutsch 1" language certificate or by taking a language proficiency test as part of an interview at a German diplomatic mission abroad. Since the ethnic German origin of the spouse and/or descendants is not at issue in these cases and thus they are not required to have learned German within their families, spouses and descendants may repeat this language proficiency test as often as they like.

7.4 Visa procedures

When they enter Germany, holders of admission notices and their accompanying spouses and descendants are usually not yet German citizens. Their entry is therefore subject to the general requirements of residence law. In particular, according to Section 4 (1) first sentence of the Residence Act, they must be issued a residence title before entering Germany.

Persons entering Germany to have their legal status determined as part of the process of being granted citizenship have no special grounds on which to claim entry; under Section 7 (1) third sentence of the Residence Act, however, in justified cases a residence permit may also be issued for a purpose of residence not covered by this Act. This option is used for holders of admission notices and their accompanying family members if they fulfil the general requirements for issuing such a permit.

7.5 Entry of additional family members under residence law

Spouses and descendants of applicants for *Spätaussiedler* status who do not meet the requirements for inclusion, as well as additional family members (e.g. applicant's stepchildren and sons- and daughters-in-law) can enter Germany with or after the principal applicant only according to the terms of foreigners law governing subsequent immigration of family members or to the general provisions of foreigners law.

7.6 Allocation process and assignment of a place of residence

After arriving in Germany, applicants and their accompanying family members are allocated among the German states (*Länder*) by the Federal Office of Administration in accordance with Section 8 of the Federal Expellees Act and according to a legally defined quota.

According to Section 2 (1) of the Act on the Assignment of a Place of Residence, the states may then assign them a temporary place of residence if they do not have a job or other source of income sufficient to support themselves. Apart from the city-states, for which this Act has no relevance, the states of Bavaria and Rhineland-Palatinate do not apply this Act, and thus no further assignment takes place in these states. By contrast, the other states have enacted ordinances governing the assignment of ethnic German repatriates within their state territory.

These persons may receive social assistance or subsistence benefits under Book II of the Social Code (SGB II: Basic security for job-seekers) only in their assigned place of residence. Anyone who moves away without permission will receive only that aid at their new residence which under the circumstances is absolutely necessary according to Book XII of the Social Code (SGB XII: Social assistance). Such aid is limited mainly to assuming the costs of food and travel to return to the assigned place of residence. Assignment to a place of residence may last a maximum of three years.

This provision is intended to distribute the burdens of supporting and integrating ethnic German repatriates evenly and fairly among municipalities, thereby improving the conditions for integration by the new arrivals. For this reason, the Federal Constitutional Court ruled in its decision of 17 March 2004 (1 BvR 1266/00) that the Act on the Assignment of a Place of Residence was constitutional. However, some

improvements were demanded, for example concerning families being able to live together. An amendment enabling re-allocation to another state, city or town upon application and in case of hardship entered into force on 28 May 2005. Section 3 b (2) of the Act on the Assignment of a Place of Residence in the version according to the 5th Act Amending the Act Determining a Temporary Place of Residence for Ethnic German Repatriates of 22 May 2005 (Federal Law Gazette I p. 1371), defines a hardship as follows:

- when spouses or domestic partners, or when parents and their minor unmarried children are allocated or assigned to live in different communities; or
- when allocation or assignment interferes with the pursuit of employment that is more than temporary and that does not yet cover all costs of living; or
- when allocation or assignment leads to a similarly unreasonable limitation.

In view of the significant restriction on affected persons' freedom of movement, lawmakers are required to monitor the further development and in particular the impacts of this legislation and to correct it in future if needed. The Federal Ministry of the Interior therefore asked the Federal Office for Migration and Refugees to evaluate the impacts of the Act on the Assignment of a Place of Residence. The final report was presented on 5 April 2007. The results were used to determine whether the Act should be repealed early or whether it can be retained. The law remains in effect until 31 December 2009.

7.7 Legal status

Under Section 4 (3) first sentence of the Federal Expellees Act, upon admission and establishment of a permanent residence in the federal territory, ethnic German repatriates are given the legal status of Germans without German citizenship as referred to in Article 116 (1) of the Basic Law. Non-German spouses and descendants acquire this status in accordance with Section 4 (3) second sentence of the Federal Expellees Act upon their admission in the federal territory, but not before their spouse/parent/grandparent who is an ethnic German repatriate.

7.8 Certification

Persons whose legal status as ethnic German repatriates (Section 15 (1) Federal Expellees Act) or the spouse or descendant of an ethnic German repatriate (Section 15 (2) Federal Expellees Act) has been recognized are issued a certificate to this effect. This certificate is legally binding for all authorities and agencies extending rights and privileges to ethnic German repatriates and their spouses and descendants. The certificate is also legally binding for the citizenship authorities, as clarified in Section 15 (1) fourth sentence of the Federal Expellees Act as amended by the 7th Act to Amend the Federal Expellees Act, effective 24 May 2007.

Since 1 January 2005, the Federal Office of Administration (BVA) is responsible for decisions on issuing these certificates; before that, it was the responsibility of the relevant authorities at state (*Land*) level. In addition, the certification process is now conducted automatically in every case and no longer only on request. The certification process checks one last time to make sure that all conditions for recognizing ethnic German repatriate status or the status of a spouse or descendant of an ethnic German repatriate have been met. However, applicants for this status do not need to repeat the language test (Section 15 (1) second sentence Federal Expellees Act).

If a certificate cannot be issued, then the applicant has not acquired the legal status defined in Article 116 (1) of the Basic Law and his/her further residence in Germany will be governed by the provisions of residence law.

7.9 Acquisition of citizenship

Following the reform of nationality law, since 1 August 1999 ethnic German repatriates and their spouses and descendants included in the admission notice are automatically granted German citizenship when they are issued a repatriates certificate in accordance with Section 15 (1) or (2) of the Federal Expellees Act (see also Section 7 Nationality Act). This reform replaced the naturalization procedure previously required (see Section 6 of the Act to Regulate Nationality Matters); those eligible for naturalization up to that time were granted German citizenship on 1 August 1999 by the force of law (see Section 40 a Nationality Act).

Spouses and descendants of ethnic German repatriates who do not fulfil the conditions for exclusion, as well as other family members (e. g. sons- or daughters-in-law of ethnic German repatriates) retain the status of foreigners. However, they may obtain German citizenship through the naturalization process if they fulfil the necessary conditions according to Sections 8 ff. of the Nationality Act, including sufficient German language proficiency and in most cases renunciation of the previous citizenship.

Form for declaring one's allegiance to the free and democratic basic order under the Nationality Act of the Federal Republic of Germany.

8 Jewish immigration

Background

Since January 1991, Germany has admitted Jewish emigrants and their families from the former Soviet Union, mainly to preserve and strengthen the viability of Jewish congregations in Germany. In the early years of Jewish immigration, protection from anti-Semitic repression in emigrants' countries of origin also played a role.

With 105,000 members and 111 Jewish congregations, Germany's Jewish community is the fastest growing in the world and the third-largest in Europe. The organized Jewish community in Germany has roughly quadrupled since 1988, when it numbered 27,000. Nearly 90 percent of the community are Jewish emigrants from the former Soviet Union.

The rebirth and growth of Jewish life is also a sign of trust in Germany. Jewish immigration from the former Soviet Union can therefore rightly be described as a success story. By choosing to come here, Jews from the former Soviet Union have given Germany another chance to be a home to rich and visible religious and cultural Jewish life.

In handling the reception of emigrants, the Jewish congregations, the Central Council of Jews in Germany and the Central Board of Jewish Welfare in Germany (reg'd. society) have done a great deal on behalf of integration. For this group of immigrants in particular, being received into a Jewish congregation is not only the explicit aim of the programme, but an aspect of successful integration.

History of the reception procedure

Until the end of 2004, Jewish immigrants from the former Soviet Union were admitted on the basis of a resolution by the German chancellor and the minister-presidents of the German states (*Länder*) on 9 January 1991. This resolution specified that immigrants were to be admitted in accordance with the Act on Measures in Aid of Refugees Admitted under Humanitarian Relief Programmes (HumHAG, also known as the Act on Quota Refugees) on a case-by-case basis with no restrictions as to quantity or duration, at a manageable level for the federal and state governments.

The admission of Jewish immigrants from the Baltic states (Latvia, Lithuania and Estonia) was discontinued when those countries joined the European Union on 1 May 2004. Since that date, Jewish citizens of those countries may reside in Germany under European and national law allowing freedom of movement (see also the section on freedom of movement for EU citizens).

With its resolutions of December 2004, June 2005 and November 2005,[10] the Standing Conference of Interior Ministers (IMK) of the German states put the reception procedures on a new legal footing with federal approval and in consultation with the Central Council of Jews in Germany and Union for Progressive Judaism in Germany (reg'd society). This new footing took into account the need to orient the admission procedures more strongly on the integration needs of the Jewish community and congregations.

Legal basis for the new admission procedures

The IMK resolutions provide for transferring the responsibility for admission to the federal level. The necessary legal changes to do so were created in Section 23 (2) and Section 75 no. 8 of the Residence Act and entered into force on 24 May 2007.

According to these provisions, the Federal Ministry of the Interior, to pursue special policy interests of the Federal Republic of Germany and in cooperation with the highest authorities at state level, may order the Federal Office for Migration and Refugees (BAMF) to admit foreigners from certain countries or certain groups of foreigners. These foreigners are to be issued a short- or long-term residence permit as indicated in the admission notice. The short-term residence permit entitles the holder to pursue paid employment or self-employment. The long-term residence permit (settlement permit) may include restrictions as to place of residence.

When these amendments went into force, the BAMF was delegated responsibility for the new admission procedures under Section 23 (2) in conjunction with Section 75 no. 8 of the Residence Act.

In anticipation of this amendment and on the basis of the IMK resolutions, the BAMF began implementing the new provisions on 1 July 2006 (seconding liaison staff to the German diplomatic missions in Moscow, St Petersburg, Kiev and Tashkent; initiating the processing of transitional and new cases; issuing application forms, advising applicants and accepting applications). However, no admission notices or rejections were issued before 24 May 2007.

[10] These resolutions are public and may be accessed on the Internet at the website of the Standing Conference.

The IMK planned a gradual transition phase for persons who submitted an application that was not decided on before the new provisions went into effect.

Persons entitled to immigrate to Germany are allocated among the German states according to the Königstein formula.[11]

Requirements for admission

Persons who, according to public vital records issued before 1990, are either of Jewish nationality or have at least one Jewish parent, are eligible for admission.

They must be citizens of successor states to the former Soviet Union (except the Baltic states), or stateless since 1 January 2005 and residing within a successor state to the former Soviet Union.

The applicant's family members (spouse and minor unmarried children) who live in the applicant's household may be included in the application.

Applicants who have already emigrated to another country (e.g. Israel, the U.S.), cannot be admitted to Germany under the terms of Jewish immigration to Germany.

The following conditions must also be fulfilled:

1. Applicants must be able to support themselves in future, in order to avoid long-term reliance on social assistance. To determine this, an integration forecast is produced for each applicant which also takes the family situation into account. The forecast assesses criteria such as occupational qualifications, work experience and German language proficiency, as well as age, work on behalf of a Jewish organization, a job offer in Germany and relatives already living in Germany.

2. Applicants must demonstrate basic knowledge of German (equivalent of level A1 in the Common European Framework of Reference for Languages (CEFR)). In case of hardship this requirement may be waived.

[11] The Königstein formula is a key for distributing "burdens" betweeen the individual German states (*Länder*). The federal-state Commission for Educational Planning and Research Promotion recalculates the formula annually on the basis of each state's tax revenues and population. The name comes from the 1949 Königstein Agreement among the states which introduced this formula, which is also used to allocate asylum seekers among the individual states.

3. Applicants must be able to be accepted into a Jewish congregation in Germany. To determine whether this is the case, the BAMF requests an opinion from the Central Board of Jewish Welfare in Germany (ZWSt) with input from the Union for Progressive Judaism in Germany (UPJ).

Victims of National Socialism are not required to demonstrate German language skills or the ability to support themselves (integration forecast); persons born before 1 January 1945 are assumed to have been victims of National Socialism unless proven otherwise.

Spouses and children aged 14 and over who are included in the application must also demonstrate basic German proficiency (CEFR level A1). In case of hardship the language requirement may be waived. Spouses must have been married for at least three years at the time of application.

The admission process

Persons interested in moving to Germany as Jewish immigrants may consult the German diplomatic mission responsible for their area and submit an application there. Once the application is complete, including all supporting documents, it is forwarded to the Federal Office for Migration and Refugees (BAMF) in Nuremberg. The BAMF examines the application and supporting documents, produces the integration forecast and requests an opinion of the Central Board of Jewish Welfare in Germany (reg'd society).

When allocating Jewish immigrants among the states, immigrants' preferences and chances of integration are largely taken into account.

If all the requirements are fulfilled, the BAMF issues a notice of admission indicating to whom the notice applies, to which state the immigrants are to be allocated and which type of residence title is to be issued by the foreigners authority.

The admission notice is sent by the German diplomatic mission abroad and is valid for one year from the date of issue. Based on the admission notice, the diplomatic mission issues a visa to enter Germany.

Reception in Germany: Residence titles, housing, benefits; German citizenship

All matters related to reception in Germany (issuing of residence titles, housing, etc.) remain the responsibility of the states (*Länder*).

After entering Germany, the responsible foreigners authority issues Jewish immigrants a permanent settlement permit; accompanying, non-Jewish family members are issued a residence permit initially valid for one year (Section 23 (2) Residence Act). Both types of residence title allow holders to take up paid employment.

If Jewish immigrants are unable to support themselves, they may receive benefits under Book II (unemployment benefit II) and Book XII (social assistance, basic security) of the Social Code. Jewish immigrants are entitled to unemployment benefit I only if they have worked in Germany and paid contributions to the statutory unemployment insurance. They are entitled to a pension only if they were gainfully employed or self-employed in Germany and paid contributions to the statutory pension insurance. Immigrants who are already retired when they arrive in Germany cannot draw a pension.

Jewish immigrants may become naturalized German citizens under the same law that applies to all non-Germans, as a rule after eight years.

Integration measures for Jewish immigrants

Requiring evidence of basic knowledge of German (CEFR level A1) means that the integration process for Jewish immigrants and their family members starts already well before they leave for Germany. The idea is that basic language proficiency will make it easier for them to get started in Germany.

Like other immigrants (ethnic German repatriates, persons entitled to asylum and other foreigners), Jewish immigrants and their families may also take advantage of integration measures offered by the government (see Section 44 (1) no. 2 of the Residence Act). These include in particular federally funded language and orientation courses offering an introduction to Germany's history, culture and legal system.

Advising for new immigrants is offered in tandem with the integration courses and is also open to Jewish immigrants. They can also take advantage of integration resources provided by the states and training offered by state employment agencies and the Otto Benecke Foundation.

Statistics

By the end of 2007, 209,226 Jewish immigrants and their families from the former Soviet Union had been admitted to Germany. Of that total, 9,549 persons entered under the terms of the Immigration Act.

Table 19: Jewish immigrants and family members from the former Soviet Union

Source: Federal Office of Administration, Federal Office for Migration and Refugees

Year	Entries per year	Cumulative total
prior cases*	8,535	8,535
1993	16,597	25,132
1994	8,811	33,943
1995	15,184	49,127
1996	15,959	65,086
1997	19,437	84,523
1998	17,788	102,311
1999	18,205	120,516
2000	16,538	137,054
2001	16,711	153,765
2002	19,262	173,027
2003	15,442	188,469
2004	11,208	199,677
2005	5,968	205,645
2006	1,079	206,724
2007	2,502	209,226

* Entered prior to or independently of the regular admission procedures.

From 1995 to 2003, the number of immigrants entering ranged between 15,000 and 20,000 each year. Since then, the number has fallen off significantly. The drop since 2005 is the result of the revised legislation governing Jewish immigration.

Most Jewish immigrants and their family members are from Ukraine and the Russian Federation. More than one-fifth of Jewish immigrants were over age 65 when they moved to Germany; another fifth were between 50 and 65 years of age. About 42 percent were younger than 40 when they immigrated to Germany.

9 Asylum, refugees and subsidiary protection

9.1 Foundations of asylum law

"Persons persecuted on political grounds shall have the right of asylum", according to the constitution of the Federal Republic of Germany, the 1949 Basic Law. Protection for refugees thus has a special priority in Germany, where, unlike many other countries, the right of asylum is not only anchored in the 1951 Geneva Convention Relating to the Status of Refugees; it is also enshrined in the constitution (Article 16 a of the Basic Law) as a basic right to be extended to foreigners in need of protection. This right can be restricted or suspended only by constitutional amendment and an individual may sue in court for this right.

From 1984 to 1992, there was an enormous increase in the number of people seeking asylum in Germany, with a record 440,000 applications submitted in 1992. To deal with these developments, in 1993 four political parties – the CDU, CSU, SPD and FDP – agreed to a comprehensive reform of asylum law, known as the compromise on asylum. Part of this compromise was to create Article 16 a of the Basic Law in its present form.

Along with fulfilling its obligations under international law, Germany guarantees the right of asylum as a basic right. Germany fulfils its obligations under the Geneva Convention on Refugees in particular by applying this convention in granting the right of residence to foreigners who are victims of political persecution but do not qualify for asylum, in accordance with the Residence Act.

The great significance the right of asylum has in Germany is above all due to the painful experience during the Nazi regime, when many Germans faced persecution at home and were dependent on protection offered by other countries. This led to a strong desire for a free and democratic Germany to assume special responsibility for those seeking protection and refuge from political persecution.

9.2 Prerequisites

Political persecution is not defined in the Basic Law; instead, this key concept has been defined in decisions of the Federal Constitutional Court and the administrative courts, drawing on the Geneva Convention's definition of the term "refugee". According to this definition, victims of political persecution are not only those who are persecuted in their home country due to their political beliefs. Rather, the right of asylum is based on the conviction that, out of respect for the inviolability of human dignity, no state has the right to harm or endanger the life, health or personal freedom of an individual for reasons of political opinion, religion or characteristics inherent to his or her unique identity.

However, not every action by the state that has a negative effect – even if directed at one of the personal characteristics just mentioned – also constitutes political persecution justifying asylum. The action must both constitute an intentional violation of individual rights and be of sufficient intensity to cut the individual off from the larger community. Such actions must also be serious enough to violate human dignity in excess of that generally faced by other residents of the same country.

A situation of general need, such as poverty, civil war, natural disaster or lack of future prospects, therefore does not constitute grounds for asylum. In most cases, political persecution is the result of actions by the state or actions for which the state is ultimately responsible. Quasi-state structures that have supplanted the state, or to which the state has surrendered the field, are considered equivalent to a state (quasi-state persecution).

The Immigration Act has significantly improved the protection of refugees: Under the Residence Act, when applying the Geneva Convention, persecution by non-state actors may also lead to the recognition of refugee status, if the state or quasi-state structures or international organizations are unable or unwilling to provide protection from such persecution.

In the past, there was disagreement as to whether persons persecuted solely on the basis of gender could be considered as belonging to a particular social group. The new Residence Act has improved protection also with regard to such gender-specific persecution, which chiefly affects girls and women. The new law clearly states that refugee status may be granted when applying the Geneva Convention if the threat of persecution is based solely on a person's sex.

9.3 Exclusion from the right of asylum

The right of asylum protects people in hopeless situations not because of their commitment to certain political ideals, such as democracy or respect for human rights, but above all because of the general obligation to respect the inviolability of human dignity as acknowledged in the Basic Law.

This means that victims of political persecution who represent ideals in conflict with our free and democratic order may also be entitled to the right of asylum. Entitlement to protection based on the right of asylum is not boundless, however. Past decisions by the Federal Constitutional Court have determined that there are limits to the state's obligation to provide protection, for example if an asylum seeker has been involved in terrorist activity. Although the right of asylum offers protection and refuge from persecution, it is not intended to provide new territory for terrorist activity or those who support it. For this reason, no one who is involved in or supports such activity in Germany or abroad is entitled to such protection. The right of asylum as written in the Basic Law is thus subject to restrictions with regard to terrorism.

Nor is an asylum seeker entitled to asylum if he or she constitutes a public menace or threat to national security because he or she has committed serious crimes and has been sentenced to at least three years in prison. Already in the past, such persons were prohibited from being granted asylum under the Geneva Convention. The Counter-Terrorism Act of 9 January 2002 introduced further grounds based on those in the Geneva Convention for refusing to grant asylum or refugee status: No one shall be granted asylum or protection from deportation if there are serious grounds to believe that he or she has committed a crime against humanity or a serious non-political crime outside Germany, or that he or she has acted in violation of the aims and principles of the United Nations.

9.4 Asylum procedures

Foreigners claiming the right of asylum must submit their claims in accordance with the procedures specified in the Asylum Procedure Act. Using the nation-wide system for initial distribution known as EASY, asylum seekers are assigned to the initial reception centres of the individual German states (*Länder*), which are responsible for receiving and housing asylum applicants.

The Federal Office for Migration and Refugees (BAMF; previously named the Federal Office for the Recognition of Foreign Refugees), which lies within the remit of the Federal Ministry of the Interior, is responsible for processing all asylum claims. With headquarters in Nuremberg and a branch office in each state, the BAMF is able to process claims as closely as possible to the reception centres, which are operated by the German states.

The central element in the asylum process is the personal interview, usually conducted with the help of an interpreter. In the interview, the asylum applicant has a chance to present his or her reasons for fearing persecution. Although the BAMF has comprehensive information resources drawn from a variety of sources on the current situation in asylum seekers' countries of origin, as a rule only the asylum

applicant can provide the BAMF with details about the specific nature of the threat he or she faces. Because of the conditions under which they left their home country, asylum applicants are typically unable to provide concrete evidence of persecution, and the BAMF does not require such evidence to recognize asylum claims. It is sufficient for an asylum applicant to make a plausible case for a threat of relevant persecution. However, asylum applicants are required to describe in full everything justifying their fear of political persecution or preventing them from being deported and to present all available documentation.

Asylum seekers who entered Germany via a safe third country (such as another EU country) may not be granted asylum, because they were already safe from persecution in that country. For such persons, the BAMF issues an order that they be returned to the safe third country from which they entered Germany. Or it arranges for them to be transferred to another responsible EU country. If it is not possible to determine the safe third country through which the asylum seeker entered, the asylum process is resumed. In such cases, asylum seekers may only be granted refugee status.

If an asylum seeker attempts to enter Germany by air from a safe country of origin or without presenting a valid passport or passport substitute, his or her application for asylum may be processed within the airport transit area before he or she is allowed to enter the country. This is intended to prevent foreigners whose asylum applications have no chance of success from entering Germany. They may be returned without delay to their country of departure or origin on the basis of that country's readmission obligations. In this case, the asylum application must be processed within 19 days, including accelerated court proceedings. If this is not possible, then the foreigner must be allowed to enter the Federal Republic of Germany to await final processing of his or her asylum application. Most asylum seekers arriving by air land at Frankfurt Airport. For this reason, the BAMF has an office at the airport which is staffed around the clock.

If an applicant is granted asylum or refugee status under the Geneva Convention on Refugees, he or she will initially be issued a residence permit valid for three years. This residence permit also contains a work permit. Because the right of asylum is intended to provide protection from current threats, recognition as a person entitled to asylum or as a refugee under the Geneva Convention does not constitute a lifetime status. If the grounds for recognition no longer exist – because a change of government in the country of origin has caused political persecution to cease, for example – then recognition must be revoked. But revoking asylum or refugee status

does not automatically result in a loss of the right to residence, because the person in question may have become entitled to the right of residence for other reasons in the meantime. The BAMF is obligated to determine after a maximum of three years whether recognition status should be revoked. If not, and if the person in question has had a residence permit for three years, he or she may apply for a permanent settlement permit.

Rejected claims to asylum may be appealed in administrative court; no preliminary proceedings are conducted. Persons whose applications for asylum have been rejected are required to leave the country. If they refuse to leave, they may be deported, i. e. removed from the country by force, if no deportation bans apply. Carrying out deportations is the responsibility of the foreigners authorities of the states, which must abide by all decisions of the BAMF and the administrative courts pertaining to asylum procedures.

9.5 Subsidiary protection

Even if the necessary conditions for granting asylum or refugee status under the Geneva Convention on Refugees are not met, humanitarian considerations may prevent a foreigner from being deported, even though he or she has no right of residence.

Considerations preventing a foreigner from being deported include the concrete threat of capital punishment, torture or other cruel or degrading treatment in his/her country of origin. In such cases, the BAMF may decide that a deportation ban applies. The same applies if the foreigner would face a significant, specific threat to his or her life, health or freedom. Temporary residence permits may be issued for as long as the grounds for the deportation ban remain valid. However, no one who has committed a serious violation of the obligation to cooperate or who poses a serious threat may be issued a residence permit; the same applies if it is possible and reasonable for the foreigner to go to another country.

When an asylum claim is processed, the BAMF is also responsible for determining the need for subsidiary protection. If a person who is to be deported has not applied for asylum, the foreigners authorities must determine whether a deportation ban applies and the person should be granted subsidiary protection (see also 10.4 below). In such cases, the responsible foreigners authority must inform the BAMF (Section 72 (2) of the Residence Act).

9.6 European harmonization

Refugee protection and subsidiary protection have been strengthened in particular through the Asylum Qualification Directive (Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted); this directive does not affect national asylum law (Art. 16 a Basic Law; see also 2.2 above, also concerning Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in Member States; and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status).

The Asylum Qualification Directive and the other directives mentioned have been incorporated into German law via the Act to Implement Residence- and Asylum-Related Directives of the European Union. The Asylum Qualification Directive covers international protection: refugee protection as defined in the Geneva Convention on Refugees and – to a limited extent – subsidiary protection. Thus there is still leeway for national provisions concerning subsidiary protection in particular (complementary protection), for example in case of deportation bans in the event of illness.

The Asylum Qualification Directive did not result in any significant innovations to refugee protection, as it is based on the Geneva Convention on Refugees.

When determining the need for subsidiary protection, non-state persecution is to be given greater attention than before, namely the same as when granting refugee status. Further, the threat of being sentenced to the death penalty, and not only the threat of such a sentence being carried out, now constitutes grounds for a deportation ban.

A foreigner is to be granted subsidiary protection if he/she would otherwise face a serious and individual threat to life or person in situations of international or internal armed conflict. An important restriction applies to general threats, that is, threats in the country of origin which apply to the population in general or the population group to which the foreigner belongs. In this case, no subsidiary protection is granted; the only option is to grant a temporary suspension of deportation under Section 60 a of the Residence Act (see also 10.4 below).

If subsidiary protection is granted under the Asylum Qualification Directive, then the persons to whom this applies are issued a residence permit valid for a minimum of one year (Section 25 (3) Residence Act).

9.7 Current situation in Germany

The number of first-time applications for asylum has been dropping since the mid-1990s; in 2006, it reached its lowest level since 1984. But many foreigners who are not victims of political persecution still try to use the asylum process as an avenue to legal residence, work or social benefits in Germany. In 2006, for example, 0.8 percent of applicants were granted asylum and 3.6 percent were protected from deportation, while 59.8 percent of applications were rejected; the remaining 35.8 percent of applications were resolved by other means, for example by returning the applicants to their country of origin or departure. In 2006, a total of 21,029 applications for asylum were submitted in Germany. This was a significant drop from the previous year, when 28,914 applications were submitted: 7,885 fewer applications, or 27.3 percent. Thus the number of asylum seekers was significantly lower again in 2006.

10 Termination of residence

10.1 General information

Foreigners are obliged to leave the country if they do not or no longer have the required residence permit (Section 50 (1) of the Residence Act). Furthermore, foreigners can be expelled on the basis of a specific order if and when certain requirements are met. If the foreigner in question fails to leave the country voluntarily, he or she will be removed by force (deportation). However, the Residence Act provides for a number of grounds for deportation bans, for example, if the foreigner in question would face capital punishment in his/her home country (Section 60 (3)) or if deportation is not permitted under the terms of the Convention for the Protection of Human Rights and Fundamental Freedoms (Section 60(5)). Both expulsion and deportation automatically lead to a ban on re-entering the country; however, this ban may be limited to a certain length of time by request, which is usually the case (Section 11 (1) third sentence Residence Act). Foreigners may avail themselves of court protection against deportation or expulsion.

10.2 Expulsion

According to Section 55 (1) of the Residence Act, a foreigner may be expelled if his or her stay is detrimental to public safety and order or other substantial interests of the Federal Republic of Germany. Section 55 (2) provides examples to illustrate the basic rule: if a foreigner violates the law or provides false or incomplete information in proceedings concerning foreigners law. Foreigners may also be expelled if they or members of their family or household claim social assistance benefits. Further, the Act to Implement Residence- and Asylum-Related Directives of the European Union provides for expulsion in case of acts which are especially hostile to integration (e. g. forced marriage) (Section 55 (2) no. 9 Residence Act).

In addition to the conditions given in Section 55 (1) of the Residence Act under which a foreigner *may* be expelled, the law specifies the conditions under which a foreigner *must* be expelled and those under which they *should* be expelled. For example, a foreigner should be expelled if he or she has been sentenced to at least

two years in prison on charges of intentionally committing a criminal offence with no further possibility of appeal (Section 54 no. 1 Residence Act). A foreigner must be expelled if he or she has been sentenced to at least three years in prison for intentionally committing a criminal offence with no further possibility of appeal (Section 53 no. 1 Residence Act).

The Counter-Terrorism Act and the Immigration Act in particular have expanded the grounds for expulsion and deportation.

The law provides for special protection against expulsion for certain groups (Section 56 of the Residence Act). Members of such groups may be expelled only on serious grounds pertaining to public security and order. Special protection reduces mandatory expulsion to regular expulsion ("must be expelled" to "should be expelled"), and regular expulsion to discretionary expulsion ("should be expelled" to "may be expelled"). Foreigners who commit serious crimes lose any special protection against deportation.

For example, special protection against expulsion is accorded to foreigners who have a settlement permit and have lived legally in Germany for at least five years,

foreigners entitled to asylum, foreigners granted refugee status under the Geneva Convention on Refugees and foreigners who live with their German spouse, life partner or other family member. Special protection against expulsion is also accorded to foreigners who have a residence permit and who were either born in Germany or entered the country as a minor and who have lived here legally for at least five years (Section 56 (1) of the Residence Act).

In addition, Section 56 (2) of the Residence Act provides special protection from expulsion for minors whose parents or parent with legal custody are legal residents of Germany. In the case of minors who have a residence or settlement permit, regular expulsion is reduced to discretionary expulsion. However, the Act to Implement Residence- and Asylum-Related Directives of the European Union excludes young people from special protection against expulsion if they have been sentenced in a final judgement on serial offences or offences of a particularly serious nature (Section 52 (2) third sentence Residence Act).

Under European Community law, EU citizens and their family members entitled to freedom of movement may be expelled only for reasons of public order, security or health. According to established rulings by the European Court of Justice, violations of public order must constitute a real and sufficiently serious threat affecting the basic interests of society (see Chapter 11).

10.3 Deportation

Foreigners may be deported (i. e. forcibly removed from the country) by the responsible state authorities only if they cannot be relied on to leave the country voluntarily, or if it appears necessary for reasons of public security and order to supervise their departure (Section 58 of the Residence Act). The person concerned is to be given written notice of deportation, including a deadline for leaving the country and the name of the country to which the person is to be deported (Section 59 Residence Act). In exceptional cases, the highest state authority or the Federal Ministry of the Interior may issue a deportation order without a prior order to leave the country in order to prevent a special threat to the security of the Federal Republic of Germany or a terrorist threat; cf. Section 58 a of the Residence Act. Such a deportation order may be issued only if the authorities have reason to believe a potential threat exists. The deportation order is then immediately enforceable; no notice of intention to deport is necessary (cf. Section 58 a (1) second sentence Residence Act).

10.4 Deportation ban

A foreigner may not be deported to a country in which his or her life or liberty is threatened due to his or her race, religion, nationality, membership of a particular social group or political convictions. In addition, under certain conditions the Immigration Act (Section 60 (1) Residence Act) extends protection provided by the Geneva Convention on Refugees to non-state persecution. The Immigration Act also acknowledges that threats to life, liberty or freedom from bodily harm solely on account of a person's sex may also constitute persecution due to membership of a certain social group. The Federal Office for Migration and Refugees (BAMF) is responsible for determining whether refugee protection is to be granted.

Further grounds for deportation bans are based on Section 60 (2) of the Residence Act (threat of torture or inhumane or degrading treatment or punishment); (3) Residence Act (threat of death penalty); (5) (application of the Convention for the Protection of Human Rights and Fundamental Freedoms) and Section 60 (7) of the Residence Act (substantial concrete danger to his or her life and limb or liberty; serious and individual threat to life or person in situations of international or internal armed conflict). Because these deportation bans depend on the circumstances in the country to which a person is to be deported, they are also known as country-specific deportation bans.

10.5 Temporary suspension of deportation

The deportation of a foreigner is to be suspended for as long as deportation is impossible in fact or in law and no residence permit is granted (Section 60 a of the Residence Act). The new Immigration Act is intended to end the practice of issuing successive suspensions of deportation. For example, a new rule states that a residence permit is to be issued if deportation has been suspended for 18 months due to obstacles preventing deportation (Section 25 (5) of the Residence Act).

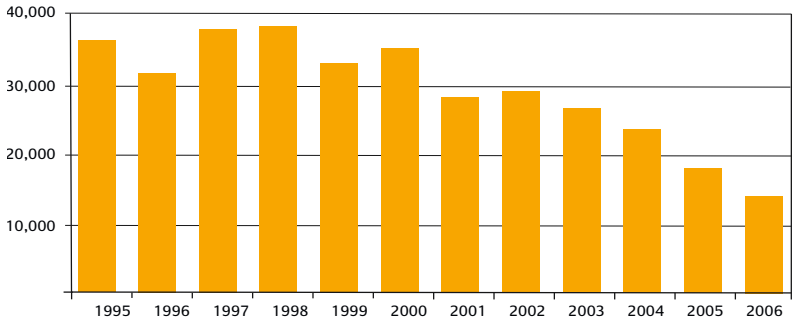
10.6 Custody awaiting deportation

Custody awaiting deportation is allowed in order to enable the preparation of expulsion (custody to prepare deportation) if a decision on expulsion cannot be reached immediately and deportation would be complicated substantially or frustrated without such detention (cf. Section 62 (1) Residence Act); such detention is also allowed to ensure deportation (custody to secure deportation) for example if the foreigner in question has already evaded deportation or if there is reasonable suspicion that he/she intends to evade deportation (cf. Section 62 (2) Residence Act). A court order is required to take someone into custody. The Act to Implement Residence- and Asylum-Related Directives of the European Union allows the responsible state authority to take a foreigner into temporary custody without a prior court order if there is urgent suspicion that custody to secure deportation is needed, a court order cannot be issued in advance and there is reason to believe that the foreigner may evade the authorities (Section 62 (4) Residence Act).

10.7 Statistics

In 2006, about 13,900 persons who had been ordered to leave the country were deported. The following figure shows the annual number of deportations since 1995.

Figure 17: Persons deported from Germany, 1995–2006



Source: Federal Police

11 Repatriation and promotion of voluntary return

11.1 General information

Foreigners who have been ordered to leave the country must abide by this order. This is a key element of a consistent policy on foreigners which seeks both to integrate foreigners lawfully residing in Germany and to restrict further immigration from countries outside the European Union. With regard to enforcing a foreigner's obligation to leave the country, German federal and state authorities give priority to voluntary returns, also by providing financial support under certain conditions. However, the tool of forcible returns cannot be dispensed with completely.

In many cases, persons obligated to leave the country refuse to do so. Also, some countries of origin fail to cooperate and are often not willing to re-admit their nationals.

Foreigners ordered to leave the country frequently conceal their identity and origin or evade the authorities in order to delay or prevent their removal from German territory. For this reason, they hide or destroy their identification papers or other personal documents. They then claim to be nationals of countries known to present legal or factual obstacles to deportation. Some deportees put up considerable physical resistance against being deported by air so that the pilot will refuse to take them on board.

Although every country is obliged under international law to readmit its own nationals, some countries of origin create considerable difficulties. Their diplomatic missions in Germany sometimes take a very long time to process applications for return travel documents, and some countries of destination require lengthy and inefficient procedures to establish a person's identity. Acquiring a passport substitute may take several years. Persons whose identity and/or nationality is in doubt may be required to appear in person at the country of origin's diplomatic mission in Germany. However, some countries flatly refuse to receive persons calling at their diplomatic missions for such purposes and refuse to make appointments to this end, or charge high fees. Before acknowledging individuals as their nationals,

some countries require a statement from the person in question that this is in fact the case, or the testimony of several compatriots, or a declaration that the person is returning voluntarily. Furthermore, the domestic authorities of some countries do not always unconditionally accept the passport substitutes issued by their consular offices abroad.

European and international cooperation with the major countries of readmission is very important. As a rule, when negotiating trade and association agreements with third countries, the EU requires the other contracting party to conclude readmission agreements with such EU Member States as so wish, apart from the existing exchange of experience and the joint conduct of individual return operations.

11.2 Promotion of voluntary returns

For nearly 30 years Germany's federal and state governments have provided financial support for voluntary returns of foreigners required to leave the country. Promoting voluntary returns has proved to be an effective tool of migration policy. It offers an alternative to coercive measures for terminating a person's stay and it adheres to the principle of giving voluntary returns priority over forcible returns.

On behalf of the Federation and the competent ministries of the German states (*Länder*), the International Organization for Migration (IOM) carries out the REAG and GARP programmes (Reintegration and Emigration Programme for Asylum-Seekers in Germany; Government Assisted Repatriation Programme). These humanitarian aid programmes are designed to offer asylum seekers, persons whose asylum applications have been rejected, and refugees in particular a preferable alternative to forcible return by encouraging them to return permanently to their countries of origin or go to a third country prepared to take them in. The REAG programme uses the federal and state funds provided to pay the travel expenses of persons leaving the country voluntarily, whether by air, rail or road. Voluntary returnees also receive a transport allowance.

Persons from countries of origin regarded as particularly significant for migration policy are granted additional start-up assistance under the GARP programme. Currently, the amount of assistance ranges between € 200 and € 500 per adult depending on country of origin (children up to the age of 12 years receive half the amount) and is intended to help voluntary returnees become reintegrated in the first months after their arrival in their home country. The maximum start-up allowance for families equals three times the amount per person. Every year, the Federal Ministry of the Interior and the states agree on which countries should be supported under the GARP programme, taking into account current political trends and objectives. Assistance under the REAG and GARP programmes may be granted only to those returnees who are cannot pay the costs for their return or onward migration themselves because they are destitute. If a returnee re-enters Germany intending to reside here permanently, he/she is obliged to repay any financial assistance received under the REAG or GARP programme.

REAG and GARP proved very effective in encouraging refugees from Bosnia-Herzegovina and from Kosovo to leave Germany and return to their countries of origin: Almost all of the 345,000 war refugees from Bosnia-Herzegovina originally admitted by Germany left between 1996 and 2002. More than 200,000 persons received

financial assistance from the REAG or GARP programmes. After the war in Kosovo ended, more than 91,000 persons returned to Kosovo voluntarily between June 1999 and the end of 2007. From 1999 to 2007, the joint federal-state REAG and GARP programmes helped roughly 170,000 persons return to their home countries.

Whereas joint federal–state assistance for voluntary returns focused on Bosnia-Herzegovina, Macedonia, Serbia and Montenegro (mostly Kosovo) from 1999 to 2001, starting in 2002 assistance was resumed for returns to countries all over the world. Nonetheless, since 2002 there has been a major drop in the number of persons returning voluntarily with the help of REAG and GARP, due to the fact that the major wave of returns to the former Yugoslavia has now ebbed and to the shrinking number of asylum seekers entering Germany in recent years.

Table 20:
Promotion of voluntary returns

Source: IOM

Year	No. of persons
1999	approx. 49,500
2000	approx. 65,400
2001	approx. 8,700
2002	approx. 12,000
2003	approx. 11,700
2004	approx. 10,000
2005	approx. 7,500
2006	approx. 5,800
2007	approx. 3,500

In 2007, the ten most frequent countries of destination for those receiving assistance for voluntary returns were Serbia, Russia, Turkey, Vietnam, Iran, Iraq, Azerbaijan, Yemen, China and Armenia.

Table 21: Top 10 countries of destination for those receiving voluntary return assistance, 2007

Source: IOM

Country	No. of persons
Serbia	495
Russia	364
Turkey	311
Vietnam	201
Iran	177
Iraq	173
Azerbaijan	163
Yemen	154
China	113
Armenia	100

Additional assistance programmes for voluntary returns are funded by the Federal Ministry for Economic Co-operation and Development (BMZ), by charitable associations, the states, and individual municipalities. In addition, funding for national initiatives and projects to promote voluntary return is available from the European Refugee Fund (EFF) and, starting in 2008, the European Return Fund specifically set up for this purpose, along with other financial instruments of the European Union. In order to provide returnees and actors involved in this field with an overview of existing resources, the Centre for the Provision of Information on Return Support (ZIRF) was set up at the Federal Office for Migration and Refugees (BAMF). Having a central clearinghouse for information on programmes and projects promoting voluntary return is designed to coordinate and oversee return projects in order to avoid duplicating assistance to the same persons, to identify new areas of assistance and to expand existing projects.

Together with organizers of return projects, the ZIRF also regularly conducts information campaigns for selected target countries, informing potential returnees about the situation in their country of origin, the possibilities to receive financial assistance, and other framework conditions.

Further details on the REAG/GARP programmes (list of countries supported under the GARP programme, eligibility, etc.) and on other return projects are available on the website of the Federal Office for Migration and Refugees (www.bamf.de).

11.3 Return policy

Voluntary return takes priority. But if persons who have been ordered to leave Germany are unwilling to do so voluntarily, forcible return to their country of origin must be considered.

In order to improve cooperation with countries of origin and to conduct returns efficiently while respecting human rights, many years ago Germany began concluding agreements with neighbouring states on the readmission of their own nationals and of foreign nationals residing in Germany illegally.

The readmission agreements which the Federal Government has concluded with a number of countries over the past years contain specific rules on implementing a country's obligation under international law to readmit its own nationals; they also include an obligation under certain conditions to readmit nationals of other countries or to allow their transit to their own country of origin. Transit rules may be the subject of transit agreements; in the past, these were negotiated in particular for the return of refugees from the civil wars in the Balkans.

So far, nearly 30 readmission agreements have been concluded mainly with European countries, but also with some non-European states, such as Vietnam, South Korea, Morocco and Algeria. These agreements govern the instruments and procedures for establishing the nationality of the persons concerned, issuing the necessary travel documents, and carrying out return operations.

In recent years, agreements have been signed with Estonia, Latvia, Lithuania, the Hong Kong Special Administrative Region of the People's Republic of China, South Korea, the Federal Republic of Yugoslavia, Slovakia, Macedonia, Albania, Armenia and Georgia. There are plans to negotiate further agreements, especially with countries in Africa and Asia.

12 Security

12.1 Political extremism, Islamism and crime

12.1.1 Political extremism

The term "political extremism" covers a broad range of attitudes and activities which, despite their sometimes significant differences, all reject the democratic state based on the Constitution and its fundamental values and rules. Based on notions of homogeneity and authoritarianism, political extremism is marked in particular by its opposition to pluralist politics and society. With its anti-democratic attitudes and activities or its militant anti-democratic orientation, political extremism stands in complete opposition to the democratic state anchored in the Constitution and rests on the idea of a different state. Political extremism may be divided into three different types: left-wing extremism, right-wing extremism and extremism by foreigners.

For the authorities responsible for protecting the Constitution, the working definition of political extremism covers all anti-constitutional activities regardless of their relevance for criminal prosecution. These authorities use the term "extremist activities" to define their core monitoring area.

12.1.2 Islamism

It should be explicitly noted that Islam as a religion, including Muslims' personal beliefs and religious practices, is protected under the basic right to freedom of religion guaranteed by Article 4 of the Basic Law as part of the liberal democratic order. One responsibility of the security authorities is to protect this freedom of religion for all citizens, including Muslims.

This should be distinguished from Islamism, which especially in its terrorist form has become a major threat to Germany's internal security. Islamism is a heterogeneous political, mainly social revolutionary movement which is supported only by a minority of Muslims. Citing the original, 7th-century Islam, Islamists call for the

"restoration" of an "Islamic order", which in their view is the only legitimate form of government and society and should replace all other systems of government. Within this "Islamic order", all areas of life are to be organized according to the Koran and the example of the Prophet and his early followers (Sunna).

Militant Islamists believe the use of force is legitimate to establish this "Islamic order". They base this belief on the Koran's call to "jihad" (effort, inner struggle; also "holy war"), which they, unlike other Muslims, interpret as a holy obligation to wage constant war on all "enemies" of Islam in Muslim and non-Muslim countries.

Despite their similar ideologies, the various Islamist organizations can be distinguished by the different methods and means they use to achieve their goals. Chief among these are the internationally active terrorist groups and mujahidin networks dedicated to violent jihad, some of which are connected to Osama bin Laden's Al-Qaeda organization.

Other Islamist organizations want to change society and the government in their home countries by violent means (terrorist activity or guerrilla war). Many of those who belong to these organizations have come to Germany as political refugees and try to provide logistical and propaganda support from Germany for the struggle in the crisis region, thus constituting a latent threat to their home countries' facilities and interests in Germany.

Further organizations exploit democratic means to establish Islamist conditions in German society or at least try to find openings for organized Islamist activity in Germany, thus working against state efforts at integration by trying to set up an Islamist parallel society.

12.2 Counter-terrorism

12.2.1 Background

The terrorist attacks of 11 September 2001 in the U.S. revealed a previously inconceivable dimension of threat posed by international terrorism. Since then, international Islamist terrorism has become the greatest threat to the international community and to Germany's internal security. Deadly bombings in major cities (Istanbul, November 2003; Madrid, March 2004; London, July 2005) have made the threat situation especially clear. Germany was also the target of Islamist terrorists

in July 2006 and September 2007; fortunately, the first bombing attempt failed and the second was prevented by arresting the suspects.

International terrorism takes many forms, which must be dealt with primarily using law enforcement measures. Residence law is especially important for counter-terrorism, because Islamist terrorists often turn out to have an immigrant background. They are also often highly mobile, travelling across international borders.

New legislation has provided a decisive response to this new quality of threat. The Counter-Terrorism Act, which went into effect already in January 2002, responded to the new threat situation by tightening existing provisions in the Foreigners Act on the entry, expulsion and deportation of foreigners, on obligations to provide information, on security interrogations and on measures to establish and document the identity of individuals. The Residence Act, which entered into force with the Immigration Act on 1 January 2005, consistently continues in this direction. Lastly, the Act to Implement Residence- and Asylum-Related Directives of the European Union, which went into force on 28 August 2007, has taken further steps to optimize the Residence Act. These steps are the result of security policy insights gained from the attempted bombings in Germany.

The Federal Minister of the Interior, Dr Wolfgang Schäuble (right), and State Secretary August Hanning at the national press conference to announce the arrest of terrorist suspects on 5 September 2007.

12.2.2 The Counter-Terrorism Act (2002)

In order to ensure that persons who commit or support terrorist or violent activities are not allowed to remain in Germany, a new ground for refusing a residence permit was introduced as early as January 2002 (Section 5 (4) in conjunction with Section 54 nos. 5 and 5 a of the Residence Act).

Under the new provisions, if a foreigner "endangers the free and democratic basic order or the security of the Federal Republic of Germany, participates in acts of violence or publicly incites violence in pursuit of political objectives or threatens the use of violence, or if there is reason to believe that the person belongs to or has belonged to an organization which supports terrorism or supports or has supported such an organization", the residence permit will be refused even if all other conditions for claiming one are fulfilled. This provision also applies to persons who give financial support to international terrorism.

In addition, the Counter-Terrorism Act defined a number of new grounds for regular expulsion under the Foreigners Act: As a rule, foreigners are to be expelled if they may not be issued a residence title for the reasons listed above. Furthermore, it is generally possible to expel foreigners who have provided false or incomplete information regarding their links with persons or organizations suspected of supporting international terrorism (Section 54 nos. 5, 5 a and 6 of the Residence Act).

The Counter-Terrorism Act also implemented UN Security Council resolutions 1269 (1999) and 1373 (2001) calling on members not to grant refugee status to persons who plan, prepare or support terrorist activity. For this reason, the law states that when there are serious grounds to suspect a foreigner of having committed a particularly serious offence, he or she shall not be granted refugee status under the Geneva Convention on Refugees (Section 60 (8) of the Residence Act). Persons to whom this provision applies are not granted a residence permit; they are subject to the limitations of the Act on Benefits for Asylum Seekers (reduced financial support) and their freedom of movement is restricted. But the provision does not override a ban on deportation: In other words, even a foreigner under serious suspicion of a particularly serious offence may not be deported to a country where he or she faces a concrete threat of death, torture, etc.

Since the Counter-Terrorism Act went into effect, measures to establish and document identity (e. g. fingerprinting) may be taken in the following additional cases:

- if the mandatory grounds for refusal under Section 5 (4) of the Residence Act apply; and

- when nationals of countries with which there are readmission difficulties and nationals of countries relevant for the current security situation apply for a visa for a stay of more than three months.

In addition, a legal basis was created to allow the personal data of visa applicants and their hosts submitted to German diplomatic missions abroad to be transferred to the federal security authorities for the purpose of ascertaining any mandatory grounds for refusing a residence title pursuant to Section 5 (4) of the Residence Act. The countries in which this procedure is applied are determined by the Federal Ministry of the Interior in cooperation with the Federal Foreign Office based on the

current security situation. In these cases, a visa may be issued only with the prior approval of the responsible foreigners authority (Section 73 (1) and (4) of the Residence Act and Section 31 (1) first sentence no. 3 of the residence regulation (AufenthV)).

The foreigners authorities too may request the security authorities to ascertain any mandatory grounds for refusing a residence permit under Section 5 (4) of the Residence Act before issuing or renewing other types of residence titles (Section 73 (2) Residence Act).

12.2.3 The Residence Act (2005) and the Act to Implement Residence- and Asylum-Related Directives of the European Union (2007)

Relevant provisions are also contained in the Residence Act, which replaced the Foreigners Act when the Immigration Act entered into force on 1 January 2005. Some important amendments were made in order to make the Act consistent with the Counter-Terrorism Act, which improve Germany's security against terrorist attack. The Act to Implement Residence- and Asylum-Related Directives of the European Union, which entered into force on 28 August 2007, created further security-related provisions intended above all to optimize cooperation between the security authorities and the agencies responsible for issuing residence titles.

Grounds for expelling a foreigner/Deportation of terrorist suspects

The Residence Act stipulates that the leaders of any organization banned because its purpose or activities oppose the constitutional order or the idea of international understanding will also as a rule be expelled (Section 54 no. 7 of the Residence Act). Under the Residence Act, persons who incite hate and violence may also be expelled if they endorse public acts such as war crimes in a way that could disrupt public security and order (Section 55 no. 8 of the Residence Act). Further, expulsion is mandatory for foreigners sentenced to imprisonment on charges of human smuggling (Section 53 no. 3 of the Residence Act).

Deportation order

In order to prevent a particular threat to the national security or a terrorist threat, the supreme authority at state level may now issue a deportation order against a foreigner without a prior expulsion order issued by a foreigners authority. Such deportation orders are subject to immediate enforcement. The Federal Ministry of the Interior may assume responsibility if there is a special federal interest in

the case. Affected persons may appeal only to the Federal Administrative Court, which significantly speeds up the process. Persons deported under such orders are permanently prohibited from returning to Germany (Section 11 (1) fourth sentence Residence Act). Such a deportation order must be based on factual evidence of a potential threat; mere supposition is not sufficient.

Persons subject to a deportation order are immediately given the opportunity to consult a legal adviser of their choice in order to be able to apply in good time for temporary relief. The deportation may not be enforced until the court has decided on the application for temporary relief. The person concerned shall be placed in custody by judicial order for the purpose of ensuring deportation if the deportation order cannot be immediately enforced (Section 62 (2) no. 1a Residence Act).

Monitoring measures

In certain cases, it may be necessary not only to terminate the residence of foreigners who may constitute a threat to Germany's internal security, but also to monitor their activities. The Residence Act therefore allows for the monitoring of foreigners who have been ordered to leave the country, for example if they cannot be deported due to the possibility of facing torture or the death penalty in the country of deportation (Section 54 a Residence Act). In these cases, foreigners may be required to report regularly to the authorities and their movements and communications may be restricted.

Foreigners subject to an expulsion order for constituting a terrorist threat or subject to an enforceable deportation order are required to report at least once a week to the authority responsible for their place of residence, unless the foreigners authority stipulates otherwise. They may reside only in the district for which that foreigners authority is responsible. They may be required to move to a different place of residence or to certain accommodations outside the district of the foreigners authority concerned, if this appears expedient in order to prevent the activities which led to the expulsion order.

Security vetting

Close cooperation between the authorities responsible for issuing residence titles (diplomatic missions abroad and foreigners authorities) and the security authorities is crucial to prevent terrorists from entering or residing in Germany. As a result, the security authorities are now authorized by law to conduct background checks of applicants before visas and residence titles are issued. The Act to Implement Residence- and Asylum-Related Directives of the European Union (see above) has further optimized the security vetting procedures.

Before a visa can be issued to a national of a country for which consultations are required, the security authorities must determine whether any security-related grounds for refusal exist (Section 73 (1) Residence Act). The applicant's host and any other references in Germany will be checked at the same time. The foreigners authorities may ask the security authorities to conduct similar checks before issuing residence permits. Applicants for settlement permits or naturalization will also be checked by the security authorities for any anti-constitutional activities (Section 73 (2) Residence Act). The security authorities are to inform requesting authorities immediately of any security concerns (Section 73 (1) and (2) Residence Act), even after a residence title has been issued and is still valid.

Establishing identity

In addition to provisions introduced under the Counter-Terrorism Act, the Act to Implement Residence- and Asylum-Related Directives of the European Union, in line with regulations at European level for the Schengen area, allows the authorities to take and record fingerprints of all applicants for national (long-term) visas, regardless of their nationality, for the purpose of establishing and verifying their identity.

German law on foreigners.

13 Institutions related to migration and integration

13.1 Federal Office for Migration and Refugees (BAMF)

General information

Under the Immigration Act, the former Federal Office for the Recognition of Foreign Refugees was renamed the Federal Office for Migration and Refugees (BAMF). Its new name reflects the fact that the BAMF, as a subordinate authority of the Federal Ministry of the Interior, has assumed central responsibility for implementing migration policy.

The BAMF continues to be responsible for processing asylum applications, granting refugee status under the Geneva Convention on Refugees and determining country-specific obstacles to deportation.

Based on the Immigration Act, the BAMF was also assigned the following new tasks:

- developing the basic structure and contents of integration courses for foreigners and ethnic German repatriates;
- implementing these courses (through private- or public-sector course providers);
- providing support for advising new immigrants;
- providing the Federal Government with expert assistance in the field of promoting integration and producing informational materials on federal, state and local integration measures for foreigners and ethnic German repatriates;
- implementing additional support measures for ethnic German repatriates (supplemental support for youth and supplemental language, social and educational support);
- developing a nation-wide integration programme;

Federal Office for Migration and Refugees.

- conducting research into migration issues with the aim of obtaining analytical conclusions for use in managing immigration;
- coordinating information on residence for the purpose of employment/self-employment between the foreigners authorities, the Federal Employment Agency and the German diplomatic missions abroad authorized by the Federal Foreign Office to deal with passport and visa affairs;
- working with the administrative authorities of the EU Member States as the national contact point (in accordance with Directive 01/55/EC) for providing temporary protection in the event of a mass influx of displaced persons, and maintaining the national register for such an event;
- disbursing funds approved under programmes to promote voluntary returns;
- allocating persons admitted under international law, for humanitarian reasons or in the political interests of the Federal Republic of Germany (currently applies to Jewish immigrants from the former Soviet Union);
- allocating foreigners who have entered the country illegally;
- assisting the foreigners authorities in determining the existence of country-specific obstacles preventing deportation in cases other than asylum applications;

- maintaining the Central Aliens Register in the BAMF's capacity as register authority;
- certifying research institutions as defined in the Researchers Directive (2005/71/EC);
- coordinating information submitted.

The BAMF has been responsible for the following tasks since 2003:

- supporting central organizations and associations that aid in integrating ethnic German repatriates, expellees and refugees;
- encouraging the voluntary return of refugees under the REAG and GARP programmes;
- receiving Jewish immigrants from the former Soviet Union;
- supporting language courses for foreign workers;
- promoting the integration of foreigners into society.

Federal Office for Migration and Refugees.

From left: Thomas de Maizière, Federal Minister for Special Tasks and Head of the Federal Chancellery; Dr Maria Böhmer, Minister of State and Federal Government Commissioner for Migration, Refugees and Integration; and Dr Hans Bernhard Beus, State Secretary at the Federal Ministry of the Interior.

13.2 Federal Government Commissioner for Migration, Refugees and Integration

In December 1978, the office of the Federal Government's Commissioner for the Integration of Foreign Workers and Their Dependants was established at the Federal Ministry for Labour and Social Affairs. The first commissioner was former Minister-President Heinz Kühn, followed on 1 January 1981 by former Minister of State Liselotte Funcke MP. From 1991 to 1998 the office was held by Cornelia Schmalz-Jacobsen MP, and from 1998 to 2005 by Marieluise Beck MP. Minister of State Maria Böhmer MP has held this post since November 2005.

The Office of the Commissioner for Matters Relating to Foreigners was anchored in the Foreigners Act with an amendment to that Act effective 1 November 1997 (Chapter 8, Sections 91a–91c).

The office, tasks and powers of the Commissioner are set down in Sections 92 to 94 of the Residence Act. Under the Immigration Act, the office was renamed "Federal Government Commissioner for Migration, Refugees and Integration" and transferred to the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. The current commissioner, Dr Böhmer, also holds the office of Minister of State in the Federal Chancellery.

The Commissioner is responsible for promoting the integration of long-term foreign residents of Germany and assisting the Federal Government in developing its integration policy, and for improving the conditions for harmonious co-existence among Germans and foreigners, promoting mutual understanding and opposing xenophobia and unjust discrimination. The Commissioner also monitors immigration trends in Germany, the EU and other countries.

The Commissioner is to be involved at the earliest possible stage in the Federal Government's legislative proposals and in other matters related to her area of responsibility. She may make proposals and express her views to the Federal Government. If there is sufficient evidence that federal authorities have discriminated against foreigners or violated their legal rights, these authorities must answer to the Commissioner. The Commissioner is autonomous in carrying out her duties.

13.3 The Federal Government Commissioner for Matters Related to Repatriates and National Minorities

From the mid-1970s, the number of ethnic German repatriates immigrating to Germany from Eastern Europe and the Soviet Union was about 40,000 to 50,000 a year. In 1988, however, this number rose dramatically: By autumn 1988, more than 130,000 repatriates had entered Germany. This high number caused enormous difficulties for the Federal Republic of Germany, as it coincided with a large number of East Germans entering from the German Democratic Republic.

For this reason, the Federal Government decided on 28 September 1988 to create the office of Federal Government Commissioner for Matters Related to Repatriates to coordinate all government activities related to the reception of East Germans and ethnic Germans from Eastern Europe and the Soviet Union.

The first person to hold this office was Dr Horst Waffenschmidt. Jochen Welt MP was appointed as his successor on 2 December 1998. With its decision of 20 November 2002, the Federal Cabinet extended the Commissioner's area of responsibility to include national minorities and changed the title to "Federal Government Commissioner for Matters Related to Repatriates and National Minorities". Since then, the Commissioner has also been responsible at federal level for the concerns of the national minorities: Danes, Frisians, Sorbs and German Sinti and Roma. By establishing this office, the Federal Government underscored the high priority it gives to the protection of national minorities.

Hans-Peter Kemper MP held this office from 17 November 2004 until January 2006; since 1 February 2006, Dr Christoph Bergner, MP and Parliamentary State Secretary at the Federal Ministry of the Interior, has also served as the Federal Government Commissioner for Matters Related to Repatriates and National Minorities.

The Commissioner is the central contact person at federal level for the concerns of ethnic German repatriates and coordinates related measures. He also assists German minorities in their home countries and represents their interests within the existing government commissions. He coordinates information campaigns in Germany and among the German minorities in their home countries.

The Commissioner is also the central contact person at federal level for the concerns of the national minorities, represents the Federal Government in the relevant contact groups and coordinates public information related to national minorities in Germany.

Dr Christoph Bergner, Parliamentary State Secretary at the Federal Ministry of the Interior and Federal Government Commissioner for Matters Related to Repatriates and National Minorities, meeting with repatriates.

13.4 The Federal Anti-Discrimination Office

When the Act on Equal Treatment (AGG) entered into force on 18 August 2006, the Federal Anti-Discrimination Office (ADS) was established within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth without prejudice to the responsibility of the commissioners of the German Bundestag or of the Federal Government. Based in Berlin, the ADS is autonomous in carrying out its duties. Dr Martina Köppen heads the team of about 20 staff members.

Anyone who believes he or she is the victim of discrimination based on race, ethnicity, sex, religion or belief, disability, age or sexuality may turn to the ADS for help. The ADS uses what it calls a "horizontal approach", a comprehensive, criteria-free strategy to protect against discrimination: Every form of discrimination receives the same level of attention, which is intended to ensure effective protection also against discrimination on multiple grounds.

Certain persons may face discrimination on multiple grounds, e.g. women or persons with a disability who are also members of a minority, making it impossible to identify a single ground for discrimination. In such cases, the AGG states that the ADS is to cooperate with the relevant commissioners of the Federal Government and the German Bundestag.

The ADS independently supports persons to ensure their right of protection against discrimination, primarily by providing information about entitlement and possibilities for legal action, arranging for advising by other appropriate agencies and seeking an amicable settlement between the parties.

In addition, the ADS performs the following tasks independently as far as they do not affect responsibilities of the commissioners of the Federal Government or German Bundestag: public information, measures to prevent discrimination on the grounds listed above, and scientific research on such discrimination.

Every four years, the ADS and the relevant commissioners of the Federal Government and the German Bundestag present reports on discrimination on the grounds listed above and make recommendations to resolve and prevent such discrimination. They may conduct joint scientific studies of these issues.

The ADS works with non-governmental agencies and agencies at European, national, state and regional level. To promote a dialogue with social advocacy groups concerned with protection against discrimination, the ADS was assigned a council consisting of 16 representatives of social advocacy organizations and experts on discrimination issues. The council, which met for its constitutive session on 25 October 2007, is chaired by Dr Barbara John, who has long served as the Commissioner for Matters Related to Foreigners for the city-state of Berlin. The council's members were appointed by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in consultation with the head of the ADS and the responsible Federal Government and German Bundestag commissioners.

Annex I
Glossary

Asylum, person entitled to
Persons entitled to asylum are foreigners who have been recognized by the Federal Office for Migration and Refugees (BAMF) as being entitled to asylum under Article 16 a of the Basic Law. They also have the legal status granted in the Geneva Convention Relating to the Status of Refugees (Section 2 (1) of the Asylum Procedure Act).

Asylum seeker
Asylum seekers are foreigners seeking protection under Article 16 a (1) of the Basic Law from political persecution, from deportation or other form of return to a country where their life or liberty is threatened due to their race, religion, nationality, political convictions or membership of a particular social group.

Persons entering Germany from a safe third country as defined in Section 26 a (2) of the Asylum Procedure Act are not entitled to protection under Article 16 a (1) of the Basic Law.

Ethnic German repatriate
According to Section 1 (2) no. 3 of the Federal Expellees Act (BVFG), ethnic German repatriates (*Aussiedler*) are German citizens or persons of ethnic German origin who left the former German territories in the former Danzig, Estonia, Latvia, Lithuania, the former Soviet Union, Poland, Czechoslovakia, Hungary, Romania, Bulgaria, Yugoslavia, Albania or China after the end of general expulsions and before 1 July 1990 or thereafter under the terms of the admission procedure before 1 January 1993, unless they first established residence in these territories after 8 May 1945 and were not expelled from these territories and did not return before 31 March 1952. Ethnic German repatriates are expellees (displaced persons, if applicable).

EU citizen
All citizens of a Member State of the European Union are EU citizens.

Expellee

According to Section 1 (1) of the Federal Expellees Act, expellees are German citizens and persons of ethnic German origin who were expelled from their place of residence within legally defined areas subject to expulsion in connection with World War II. These general expulsions ended by 1949.

Foreigner

A foreigner is anyone who is not German within the meaning of Article 116 (1) of the Basic Law, which is primarily based on possession of German citizenship.

Guest worker

"Guest worker" (*Gastarbeiter*) was the colloquial term for foreign workers recruited to come to Germany until 1973, when such recruitment was discontinued.

Hardship case

In accordance with Section 23 a of the Residence Act, a residence permit may be granted in case of special humanitarian need, even if the foreigner concerned is enforceably required to leave the country. To this end, a request must be submitted to the Hardship Commission, which may then request the supreme authority at state level to issue a residence title to the foreigner. The Commission decides at its discretion; it is not obligated by law to submit such a request, nor is the competent state authority obligated to grant a residence permit.

This provision on hardship cases, introduced under the Immigration Act, is the response to a request expressed by charitable organizations, churches and refugee associations for many years. However, according to Article 15 (4) of the Immigration Act, this provision expires after 31 December 2009.

Illegal alien

This term (*Illegale*) is used by the general public to refer to foreigners living in Germany without the permission or knowledge of the responsible authorities.

Immigrant background

As defined by the Federal Statistical Office, persons of immigrant background are all those who have immigrated since 1949 to the present-day territory of the Federal Republic of Germany, all foreigners born in Germany and all German nationals born in Germany with at least one parent who immigrated to Germany or was born as a foreigner in Germany.

Immigration

German has two different words for immigration: *Einwanderung* and *Zuwanderung*. The first refers to the lawful entry and residence of foreigners intending from the outset to settle permanently in Germany, i. e. legal immigration, while the second has become the accepted term to describe all forms of migration (long- and short-term) across national borders.

Integration

Integration is a long-term process intended to ensure that all lawful and permanent residents are included in German society. Legal immigrants should be able to participate fully in all areas of society, on equal terms wherever possible. Immigrants are obligated to learn the language of the country in which they live and to know, respect and uphold the German constitution, German laws and the basic values of German society. And the receiving society is obligated to provide immigrants equal access to all areas of society, if possible.

Internal refugee / internally displaced person

Internal refugees or internally displaced persons are those fleeing conflicts or man-made disasters within their home country, i. e. without crossing international borders.

Jewish immigration

Since January 1991, Germany has admitted Jewish emigrants and their families from the former Soviet Union with the aim of preserving and strengthening Jewish communities in Germany. Jewish immigration was initially governed by the 1991 resolution of the Federal Chancellor and the minister-presidents of the German states (*Länder*); since early 2005, it has been governed by the resolutions of the interior ministers of the states in accordance with Section 23 of the Residence Act. Jewish immigrants are issued a permanent residence title and accompanying family members receive a temporary residence title; they are allowed to take up paid employment/self-employment and receive social assistance benefits if necessary.

Jus sanguinis

Jus sanguinis is the principle of granting citizenship based on the citizenship of the parent(s) rather than the country of birth. For that reason, it is also known as the principle of descent. Most countries apply this principle alone or in conjunction with *jus soli*. Since the Nationality Act of 1913, German nationality law has primarily applied the principle of *jus sanguinis* (see Section 4 (1) of the Nationality Act (StAG)). In addition, the Act to Reform Nationality Law of 15 July 1999 introduced a form of *jus soli* for acquiring German citizenship (see below).

Jus soli

Jus soli is the principle of granting citizenship based on the country of birth, from the Latin for "right of the territory". The Act to Reform Nationality Law of 15 July 1999 introduced a form of *jus soli* for acquiring German citizenship which applies to children of foreigners born in Germany; they are initially granted German citizenship but ultimately must choose between it and that of their parent(s).

'Late repatriate'

According to Section 4 (1) or (2) of the Federal Expellees Act (BVFG) as promulgated on 2 June 1993 (Federal Law Gazette I 829), last amended by the Act to Consolidate the Federal Budget (HSanG) of 22 December 1999, 'late repatriates' (*Spätaussiedler*) are persons of ethnic German origin (Section 6 Federal Expellees Act) who left their home countries after 31 December 1992 after applying for admission to Germany and established permanent residence in Germany within six months.

Applicants from the territory of the former Soviet Union are assumed to have suffered discrimination as a result of World War II, which is the reason for being admitted to Germany (Section 4 (1) Federal Expellees Act). Applicants from other regions must present plausible evidence that they left due to discrimination or the continued impact of earlier discrimination based on their German ethnicity (Section 4 (2) Federal Expellees Act).

Anyone who received an admission notice (*Aufnahmebescheid*) before 1 January 1993 or an admission permit (*Übernahmegenehmigung*) before 1 July 1990 and fulfils the requirements listed in Section 1 (2) no. 3 or Section 4 of the Federal Expellees Act qualifies as a late repatriate (Section 100 (4) or (5) Federal Expellees Act).

Migration

Migration is a phenomenon in which persons (migrants) move, for a variety of reasons, to another country for the medium or long term.

Quota refugee

Quota refugees are refugees from crisis regions admitted until the end of 2004 within the framework of international humanitarian relief missions on the basis of the Act on Measures in Aid of Refugees Admitted under Humanitarian Relief Programmes. Since 1973, Germany has taken in great number of quota refugees, for example from Vietnam ("boat people") and Chile. Jewish immigrants from the former Soviet Union were admitted under the terms of this law from 1991 to 2004; the law was suspended when the Immigration Act entered into force on 1 January 2005.

Refugee

As defined in the Geneva Convention Relating to the Status of Refugees of 28 July 1951, a refugee is a person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

Also known as Convention refugees, they are not entitled to asylum under Art. 16 a of the Basic Law but are protected from deportation. In Germany, recognition as a foreign refugee is granted within the asylum application process if grounds for a ban on deportation are found to exist pursuant to Section 60 of the Residence Act.

Refugee of war or civil war (Bosnia-Herzegovina, Kosovo)

In the broadest sense, refugees of war and civil war are persons fleeing their home country due to fear of the effects of armed conflicts (direct impact of battles, attack by warring parties, targeted expulsion and the like). Most of them do not qualify for refugee status under the Geneva Convention on Refugees, but this can only be determined in the course of processing their asylum applications.

Residence title

In order to enter and reside in Germany, foreigners must have permission in the form of a residence title. A residence permit is always temporary, while a settlement permit is granted for an unlimited time and without any geographical restrictions and allows the bearer to pursue paid employment or self-employment. The EC long-term residence permit, which is based on EU law, is an unlimited residence permit granted to third-country nationals who have been legal residents of Germany or another European Union Member State for at least five years. The Residence Act also lists visas as a type of residence title.

Safe third country

According to Section 26 a of the Asylum Procedure Act and constitutional law, safe third countries are the European Union Member States and other European countries (e. g. Norway, Switzerland) which uphold the Geneva Convention Relating to the Status of Refugees and the European Convention on Human Rights. Foreigners who have entered one of these countries, where they can receive protection under the Geneva Convention on Refugees, are to be denied entry to the Federal Republic

of the Germany at the border, because anyone entering Germany from a safe third country is not entitled to the basic right of asylum.

Temporary suspension of deportation

A temporary suspension of deportation may be granted to persons who are required to leave the country but in fact cannot leave or be deported for certain reasons (e. g. illness, country of origin's refusal to allow re-entry).

Third-country national

In contrast to EU citizens, i. e. all citizens of European Union Member States, third-country nationals are citizens of countries that do not belong to the EU or the European Economic Area.

Annex II

Chronology of policy on foreigners since the recruitment of guest workers

1955
Labour recruitment agreement with Italy

1960
Labour recruitment agreement with Spain and Greece

1961
Labour recruitment agreement with Turkey

1963
Labour recruitment agreement with Morocco

1964
Labour recruitment agreement with Portugal

1965
Labour recruitment agreement with Tunisia

1968
Labour recruitment agreement with Yugoslavia

23 November 1973
Resolution of the Federal Cabinet concerning the ban on recruitment: no more recruitment of labour from non-EC States.

1 October 1978
Consolidation of the residence status of foreign workers following the amendment of the General Administrative Regulations relating to the Foreigners Act (unlimited residence permit after five years of residence and right of residence after eight years of residence).

The amendment to the Work Permit Ordinance brings the labour market status of foreign workers into line with their residence status (permanent special work permit after eight years of residence). (Fourth amendment to the Work Permit Ordinance of 29 August 1978, Federal Law Gazette I, p. 1531)

22 November 1978
First appointment of a Federal Government Commissioner for the Integration of Foreign Workers and Their Families (Minister-President (retired) Heinz Kühn; followed on 1 January 1981 by the Minister of State (retired) Liselotte Funcke (MP). In November 1991 the office was renamed and called: Federal Government Commissioner for Foreigners Issues. From 1991 to 1998 the office was held by Cornelia Schmalz-Jacobsen (MP), and from 1998 to 2005 by Marieluise Beck (MP). Since November 2005 Minister of State Prof Dr Maria Böhmer (MP) has held this post.

29 August 1979
Programme for foreign refugees: Refugees admitted in the context of humanitarian aid (quota refugees) are given the same status as persons entitled to asylum, without having to go through asylum procedures. Entry into force of the Act on Measures in Aid of Refugees Admitted under Humanitarian Relief Programmes: 1 August 1980 (Federal Law Gazette I, p. 1057).

18 June 1980
Emergency programme to restrict the number of “bogus” asylum seekers entering the country: Measures to speed up the asylum process, denial of work permits during the first year after entry and introduction of visa requirements for those countries from which the most asylum seekers are coming.

1 August 1982
Entry into force of the Asylum Procedure Act of 16 July 1982 (Federal Law Gazette I, p. 946): It contains regulations intended to speed up the asylum application procedure while protecting the constitutional right to asylum.

18 December 1982
Entry into force of the 14th Ordinance Amending the Ordinance on the Implementation of the Foreigners Act of 13 December 1982 (Federal Law Gazette I, p. 1681). Introduction of visa requirements for foreigners from non-EC Member States intending to stay in Germany for more than three months, and repeal of the transit privilege granted to Ethiopian nationals.

1 December 1983
Entry into force of the Act to Promote the Preparedness of Foreign Workers to Return of 28 November 1983 (Federal Law Gazette I, p. 1377): Repatriation assistance, immediate reimbursement of employee contributions to the statutory pensions system, early access to state subsidized savings without financial penalty, compensation for accrued rights to occupational pensions, and advising.

1 December 1986
Entry into force of the 15th Ordinance Amending the Ordinance on the Implementation of the Foreigners Act of 1 December 1986 (Federal Law Gazette I, p. 2110). Air passengers from certain (additional) problem states now have to apply for a transit visa even for a single stopover on German territory.

15 January 1987
Entry into force of the Act to Amend the Regulations Governing Legal Questions of Asylum Procedure, Work Permits and Foreigners Law of 6 January 1987 (Federal Law Gazette I, p. 89). Implementation of the Bundesrat proposals to speed up asylum procedures.

25 December 1988
Entry into force of the Act to Amend Regulations Governing Legal Questions of Asylum Procedure and Foreigners Law of 20 December 1988 (Federal Law Gazette I, p. 2362).

12 May 1989
Entry into force of the 17th Ordinance Amending the Ordinance on the Implementation of the Foreigners Act of 3 May 1989 (Federal Law Gazette I, p. 881).

19 June 1990
Signing of the Convention Implementing the Schengen Agreement.

9 July 1990
Promulgation of the Act Amending the Foreigners Law (Federal Law Gazette I, p. 1354). Major parts of the act enter into force on 1 January 1991.

1 January 1991
Entry into force of the Act Amending the Foreigners Law and the Ordinance on the Implementation of the Foreigners Act (Federal Law Gazette 1990 I, p. 2983), of the Ordinance on Residence Authorizations for the Purposes of Taking Up Employment (Federal Law Gazette 1990 I, p. 2994), of the Ordinance on Communicating Data to Foreigners Authorities (Federal Law Gazette 1990 I, p. 2997), of the Ordinance on the Keeping of Foreigners Files by Foreigners Authorities and Diplomatic Representations (Federal Law Gazette 1990 I, p. 2999), of the Ordinance Governing the Fees Arising in the Context of the Foreigners Act (Federal Law Gazette 1990 I, p. 3002), of the Ninth Ordinance Amending the Work Permit Ordinance (Federal Law Gazette 1990 I, p. 3009) and of the Ordinance on Exemptions Relating to the Issue of Work Permits to Foreign Workers Entering the Federal Territory for the First Time (Federal Law Gazette 1990 I, p. 3012).

1 July 1992
Entry into force of major parts of the Act on the Re-organization of Asylum Procedures (Federal Law Gazette 1992 I, p. 1126).

30 June 1993
Entry into force of the Act Amending the Basic Law (Articles 16 and 18) of 28 June 1993 (Federal Law Gazette I, p. 1002). Promulgation of the Act to Re-organize Benefits for Asylum-Seekers (Federal Law Gazette I, p. 1074). The Act enters into force on 1 November 1993.

1 July 1993
Entry into force of the Act Amending Asylum Procedure, Foreigners and Nationality Provisions of 30 June 1993 (Federal Law Gazette I, p. 1062).

1 October 1994
Entry into force of the Act on the Central Aliens Register of 2 September 1994, (Federal Law Gazette I, p. 2265, cf. Chapter 2.2).

25 May 1995
Entry into force of the Ordinance on the Implementation of the Act on the Central Aliens Register of 17 May 1995 (Federal Law Gazette I, p. 695).

1 June 1997
Entry into force of the amendment to the Act on Benefits for Asylum-Seekers (Federal Law Gazette I, p. 1130).

1 November 1997
The Act Amending Foreigners and Asylum Procedure Provisions takes effect (Federal Law Gazette I p. 2584). The Act improves the legal status of foreigners living lawfully in Germany, facilitates the expulsion and deportation of criminal foreigners and puts the office of the Federal Government Commissioner for Foreigners' Issues on a new legal basis.

15 July 1999
Act to Amend the Nationality Law. Parts of the act take effect on 1 August 1999; the remaining parts on 1 January 2000.

1 January 2000
Key elements of legislation to reorganize nationality law take effect. In addition to the principle of descent, the principle of birthplace (in Latin: *jus soli*) is introduced for the acquisition of citizenship. Under certain circumstances, children of foreign parents born in Germany acquire German citizenship upon their birth and have better opportunities for integration. The period of residence in Germany required for foreign nationals to be entitled to naturalization is reduced to eight years, applicants must prove adequate knowledge of the German language, and a special clause preventing extremist foreigners from becoming naturalized German citizens is introduced.

23 February 2000
Federal Chancellor Schröder announces his Green Card initiative at the CeBIT computer trade show in Hanover creating an exception to the ban on the recruitment of foreign labour for 20,000 foreign computer specialists. A new debate on immigration begins.

4 July 2001
The independent commission on immigration set up in order to come up with practical solutions and recommendations for a new policy on foreigners and immigration presents its final report to Federal Minister of the Interior Otto Schily.

3 August 2001
The ministerial draft of proposed legislation on immigration is presented followed by numerous amendments to the draft.

1 March 2002
The Bundestag passes the Immigration Act with support from the Social Democrats (SPD) and Alliance 90/The Greens.

March–December 2002
The Bundesrat adopts the Immigration Act in a controversial voting procedure (22 March). Due to a procedural error, however, the opposition calls for a ruling from the Federal Constitutional Court on 16 July. On 18 December the Court decides that the Immigration Act was passed improperly and is invalid.

May–July 2003
On 9 May the Bundestag again passes the Immigration Act without further changes. The Bundesrat again rejects the Act (20 July), forcing the Federal Government to send it to the Mediation Committee.

19 May 2004
Entry into force of the Act on the European Convention on Nationality of 6 November 1997 (Federal Law Gazette 2004 II, p. 578).

25 May 2004
After talks between Federal Chancellor Gerhard Schröder and the chairs of the SPD, Alliance 90/The Greens, FDP, CDU and CSU, the Federal Government and the opposition are able to reach a compromise on the Immigration Act. Federal Interior Minister Otto Schily is assigned to work with CDU/CSU negotiator Minister-President Peter Müller and Bavarian Interior Minister Dr Günther Beckstein to redraft the bill.

13 June 2004
Election of MEPs from the Federal Republic of Germany.

July 2004
The German Bundestag adopts the Immigration Act on 1 July. The Bundesrat passes the Act on 9 July.

1 January 2005
The Immigration Act goes into effect (Federal Law Gazette 2004 I, p. 1950).

18 March 2005
The Act Amending the Residence Act and other acts (Federal Law Gazette I, p. 721) goes into effect. It is intended to coordinate the Immigration Act with other legislative acts passed at the same time.

11 November 2005
In their Coalition Agreement, the CDU, CSU and SPD agree on an evaluation of the Immigration Act. This is intended to determine whether the Immigration Act has achieved the desired aims and whether further improvement is needed.

30/31 March 2006
Practitioners share their experience on evaluating the Immigration Act in the Federal Ministry of the Interior. In summer 2006 the Federal Ministry of the Interior presents its evaluation of the Immigration Act to the German Bundestag.

28 March 2007
Cabinet decision on a bill to implement residence- and asylum-related directives of the European Union amending the Residence Act, the Freedom of Movement Act/EU, the Asylum Procedure Act and other acts and ordinances.

28 August 2007
After the bill is passed by the German Bundestag (14 June) and the Bundesrat (6 July), the Federal President promulgates the act on 19 August, and most parts of the act enter into force on 28 August.

Annex III
Authorities and organizations

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