

COUNTRY REPORT

Aspiring Re-migrants' Behaviour in Mobility Policies: the Case of Germany

Vanessa Tkotzyk*

AspirE – Asian prospects in (re)migration to/within the EU – is a three-year research project (2023-2025) that examines the decision making of aspiring (re)migrants from selected Southeast and East Asian countries (China, Japan, Philippines, Thailand and Vietnam) to and within selected EU member countries (Belgium, the Czech Republic, Finland, Germany, Italy and Portugal).

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Executive Summary

This country report answers the question in how far human behaviour is considered in Germany's (im)mobility regime. In the first part of the report, the current immigration situation is presented by focusing on the characteristics of the immigration flow in 2022. Special attention is given to Asian migrants and citizens of the participating countries in this project – China, Japan, the Philippines, Thailand, and Vietnam. In the second part, a historical overview provides context for the development of Germany's self-image as a country of immigration, as well as important turning points in German migration policy. By analysing six migration policies – Schengen, tourism, labour migration, investment-based immigration, student mobility, and family reunification – this report sheds light on the conditions of entry and stay, the benefits, penalties, and amnesty clauses (forgiving clauses) for actors, as well as their characteristics and the temporalities reinforced in the policies.

Keywords

Migration Regime Germany, Skilled Labour Migration, Human Behaviour, AspirE Project

Abbreviations

AspirE	– Asian Prospects in (Re)migration to/within the EU
BQFG	– Gesetz zur Feststellung und Anerkennung im Ausland erworbener Berufsqualifikationen (Berufsqualifikationsfeststellungsgesetz)
DAAD	– Deutscher Akademischer Austauschdienst (German Academic Exchange Service)
Destatis	– Federal Statistical Office of Germany
ETIAS	– European Travel Information and Authorisation System
EU	– European Union
Federal Recognition Act	– Law to Improve the Assessment and Recognition of Professional and Vocational Education and Training Qualifications Acquired Abroad
FRG	– Federal Republic of Germany
GDR	– German Democratic Republic
ICT	– Intra-Corporate Transferee
Residence Act	– Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory
TCN	– Third Country National

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Introduction

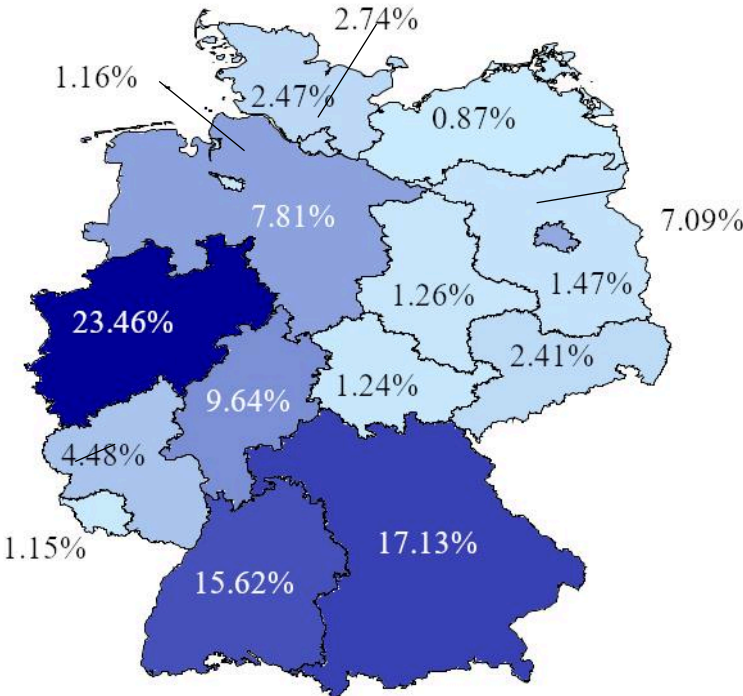
According to the Statistical Office of Germany's ranking of the 15 countries with the most immigrants, Germany is the second biggest immigration country in the world. With 15.8% of foreign residents living in Germany in 2020, it is only outranked by the United States (50.6%). Nevertheless, despite immigration being an undeniable factor in German history since its foundation in 1949, it was not until Germany's first immigration law (Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners, in short Immigration Act) of 2005, passed under Chancellor Gerhard Schröder, that the new red-green government recognised Germany as an immigration country officially – something that prior governments had refrained from. The Immigration Act includes not only the Act on the General Freedom of Movement for EU Citizens, but also the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory, in short Residence Act. As can be seen in Chapter 2 of the Residence Act, the law concerns the necessity of residence titles and the circumstances under which foreigners may enter, stay, and work in the federal territory. Acknowledged reasons for residence are educational purposes, the purpose of economic activity, reasons of international law and on humanitarian or political grounds, and family reasons. Part 7 of Chapter 2 deals with “Special rights of residence”, namely the right of return, residence titles for former Germans, and residence permits for long-term residents in other member states of the European Union (EU). To lay the foundation for a better understanding of aspiring re-migrants' behaviour, this report aims to examine its place in Germany's mobility policies. The analysis focuses on the migration of third-country nationals (TCNs), in particular, on the migration of Asians. It does not consider involuntary or forced migration or migration from within the EU. Overall, the following six migration policies, of which some serve as core policies of the aforementioned Residence Act, will be examined: Schengen, tourism, labour migration, investment-based immigration, student mobility, and family reunification policy.

Since voluntary migration is mainly based on work, study, or family reasons, it is vital to analyse the corresponding policies at the country level. It is important to note that hesitation to migrate due to marriage is sometimes met with touristic stays. These touristic stays serve as a means to assess future migration endeavours. Therefore, it is also essential to explore Germany's policy on tourism. In this context, tourist visas can also be used to enter the desired country and might lead to – or were already intended for – overstaying. Investment-based immigration, on the other hand, is not very common in Germany compared to other EU countries such as Portugal. In recent times, however, it gained a lot of interest in Europe and Germany among policymakers and social actors on the country and EU level. In the foreseeable future, stipulations and regulations on investment-based migration might, therefore shape migration to Germany more substantially. Nonetheless, because of its susceptibility to abuse regarding gaining citizenship, investment-based migration is not entirely regarded as unproblematic (Scherrer & Thirion, 2018). The Schengen agreement is the key element of freedom of movement within the EU and embodies one of the European Union's central values: Freedom. According to the European Commission, the Schengen policies enable every EU citizen to move freely within EU borders without special formalities and tighten control at EU's common external borders, thus ensuring the security of those travelling or living within the Schengen Area. Nevertheless, times of crisis, as seen during the COVID-19 pandemic, unearth inconsistencies related to the denial of entry (Friedery, 2022). All these aspects are pivotal for migration to or within the EU and, thus, for understanding migration to Germany, making it essential to consider the Schengen policy in this report. All policies as mentioned above need to be analysed because they either are related to the biggest voluntarily migration flows in terms of numbers, hold significance for the future, or represent key principles of the EU. Therefore, the research question “How does the migration or mobility regime in

Germany consider aspiring re-migrants' behaviour in its policies?" or in other words, "To what extent do Germany's mobility policies consider aspiring re-migrants' behaviour?" will be applied to these policies.

In the following, this chapter gives general information on the foreign population in Germany, Asian migrants, and migrants from the participating Asian countries in the project, namely China¹, Japan, the Philippines, Thailand, and Vietnam. According to the GENESIS database of the Federal Statistical Office of Germany, 13,383,910 million foreigners lived in Germany in 2022. Since 2005, people with a migratory background are also considered in the statistics. The statistics indicate that in 2022, 23.8 million people with a migratory background and 168,500 persons who became naturalised Germans resided in Germany. The geographical distribution of Germany's foreign population, illustrated in Figure 1, shows that the five reestablished states of the former German Democratic Republic (GDR) only host 7.24% of the foreign population, while the states comprised of former West Germany host 92.76%. Figure 1 makes these regional disparities between East and West Germany apparent. They are partly grounded on the fact that immigration is mainly directed toward large cities and highly urbanised areas (Heider, Stroms, Koch & Siedentop, 2020). This also explains the low numbers of foreigners in the Federal State of Schleswig-Holstein in the north of Germany and Saarland close to the border of France. However both are former West German territories. The highly industrialised and densely populated Federal State of North-Rhine Westphalia hosts most of the foreign population (23.46%). Together with Bavaria (17.13%) and Baden-Württemberg (15.62%), these three federal states are home to more than half of the foreign population (56.21%). The remaining 43.79% are distributed among the other 13 federal states, with none exceeding a 10% share.

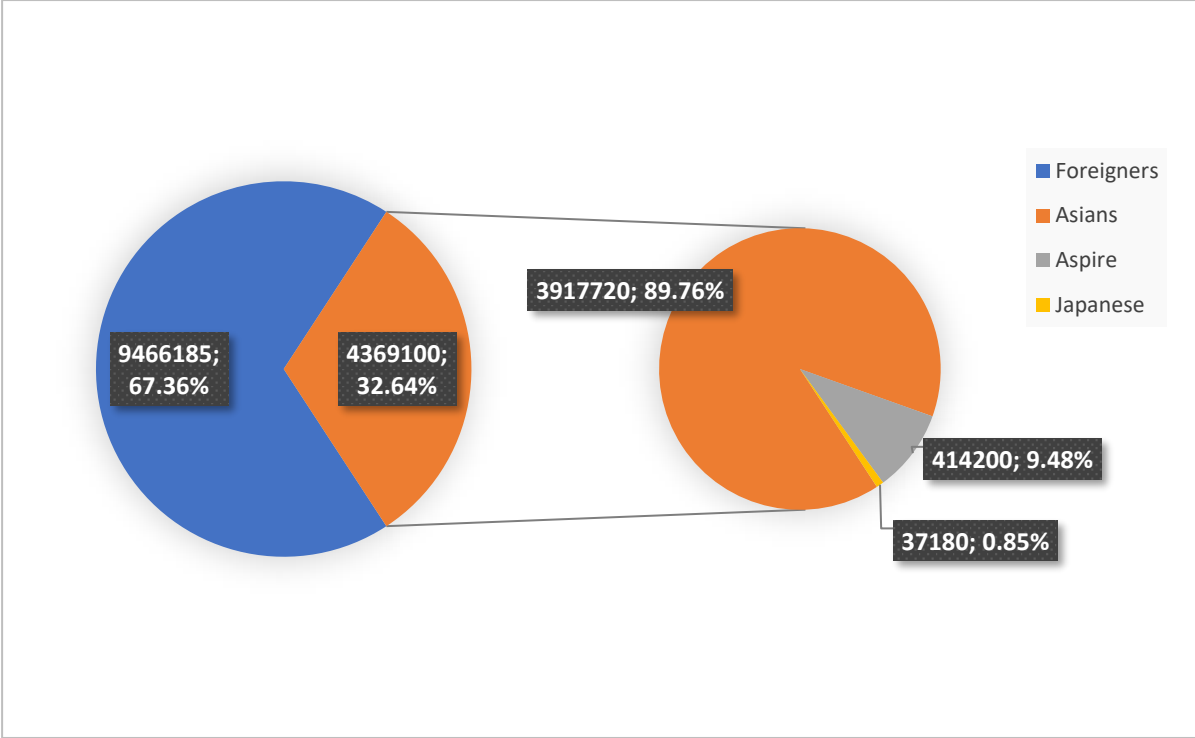
Figure 1: Geographical Distribution of Foreigners in Germany in 2022 in Per Cent



Source: Own representation and calculation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0²

As can be seen in Figure 2, among the more than 13 million foreigners 4,369,100 are Asians, accounting for 32.64% of all foreigners in Germany. Of these, 32.64%, 414,200 are nationals of Asian countries in the project (9.48%), and 37,180 are Japanese (0.85%). Nationals of the Asian countries participating in the AspirE (Asian Prospects in (Re)migration to/within the EU) project are – partly due to socio-historic reasons – distributed differently within the federal territory. The Vietnamese community is mainly situated in Berlin and Bavaria. Its high concentration in the German capital is a consequence of the former GDR’s recruitment policies targeting Vietnamese workers in the 1960s (Bösch & Su, 2018).

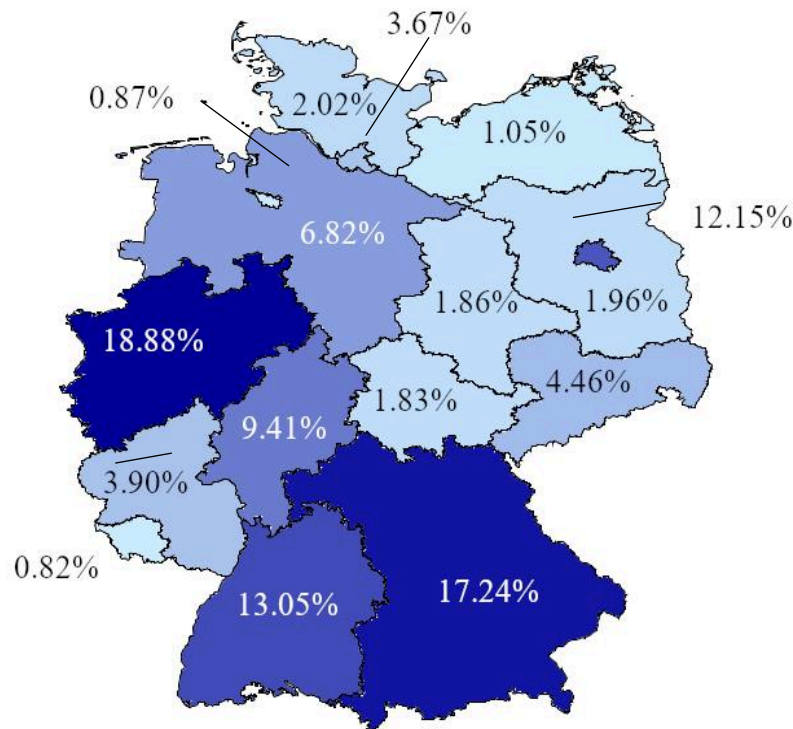
Figure 2: Share of Asians among Foreigners Living in Germany in 2022



Source: Own representation and calculation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0³

Figure 3 reveals that North-Rhine Westphalia and Bavaria host the leading share of immigrants of countries in the project, however, Baden-Württemberg and Berlin make up for another significant share (13.05% and 12.15%). The contrasting concentration of immigrants in Berlin is related to the Vietnamese community, mainly situated in Berlin and Bavaria (due to socio-historic reasons). The Philippines and Thailand immigrant population predominantly resides in North-Rhine-Westphalia, Bavaria, and Baden-Wurttemberg. The same applies to the Chinese community, albeit with more community members living in North-Rhine Westphalia and Bavaria than in Baden-Wurttemberg. The majority of the Japanese community in Germany is located in North-Rhine Westphalia, which is related to its state capital, Dusseldorf, hosting the largest community of Japanese in Germany, and the Rhine Ruhr Area. Its significance attracts Japanese companies and migrants alike. All in all, the distribution of AspirE country nationals slightly differs from the geographical distribution of Germany’s general foreign population, as is depicted in Figure 3.

Figure 3: Geographical Distribution of AspirE Country Nationals in Germany in 2022 in Per Cent



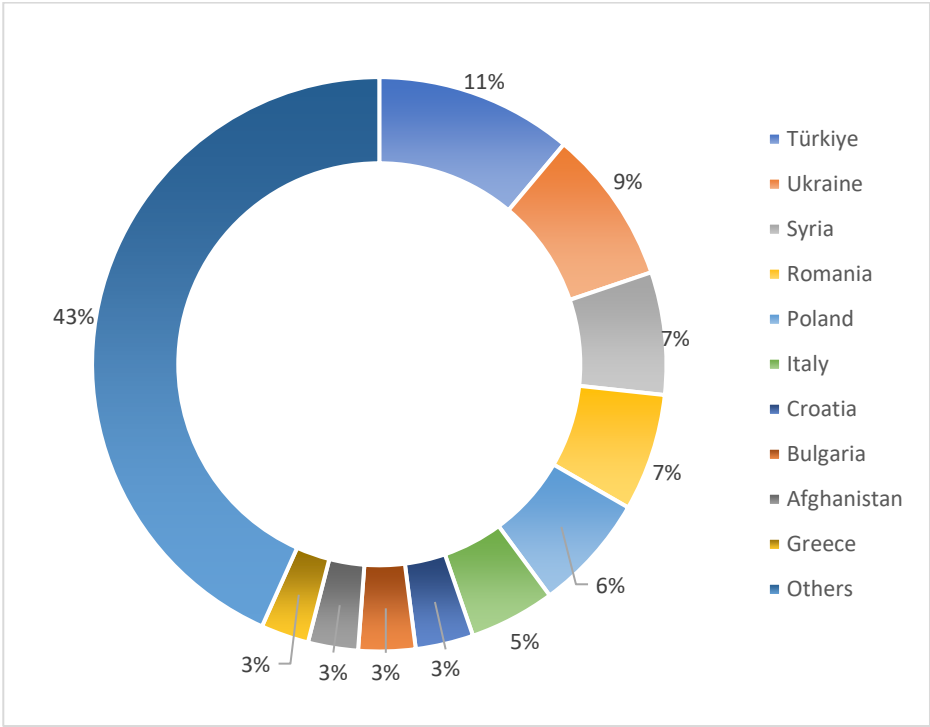
Source: Own representation and calculation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0⁴

As can be seen in Figure 4, the most significant population of foreigners in Germany are Turkish nationals, accounting for 1,487,110 persons and 11.11% of the total population of foreigners, followed by Ukrainian nationals (1,164,200 persons, 8.7%) and persons from Syria (923,805 persons; 6.9%). Since all of the above are citizens from non-EU countries, the three biggest populations of foreigners in Germany are TCNs. The high number of Turkish nationals in Germany can be explained by the large-scale migration of Turkish citizens during the economic boom after the Second World War and the recruitment of labourers, so-called guest workers, in the 1960s. After the recruitment ban in 1973, these labourers were often joined by family members. Due to the political upheaval in Türkiye during the 1970s and 1980s, asylum seekers and refugees also joined the Turkish communities in Germany. In the mid-1980s, however, up to 200,000 Turkish people returned to their home country, encouraged by the Foreigners Repatriation Incentives Law of 1983. The steady decrease in Turkish nationals in Germany from 1999 onwards can be linked to better economic prospects in Türkiye and declining numbers of asylum applications and of family members joining their dependants in Germany (Aydin, 2016). The number of applications for naturalisation is also steadily decreasing since 2000. Only 0.96% of the Turkish population in Germany was naturalised in 2022.⁵ A further look at the statistics of Ukrainian citizens in Germany, available from 1992 onwards, shows that their numbers were insignificant until 2022. In 1992, 3,975 Ukrainian nationals were registered in the Federal Republic of Germany (FRG), accounting for 0.06% of Germany's total foreign population. It was not until 2001 that the number of Ukrainians in Germany exceeded 100,000 individuals, reaching 103,477 Ukrainians, accounting for 1.41% of Germany's total foreign population. The sharp increase from 155,310 Ukrainian nationals in 2021 to 1,164,200 in 2022, an increase of 649,60%, can be attributed to the war between Ukraine and Russia. Prior to this, the sharp increase in the numbers of Syrian nationals in Germany in 2015 had already drawn a lot of media attention and subsequently

became a matter of public interest in Germany. The high number of Syrian refugees in Germany is a consequence of the ongoing civil war in Syria.

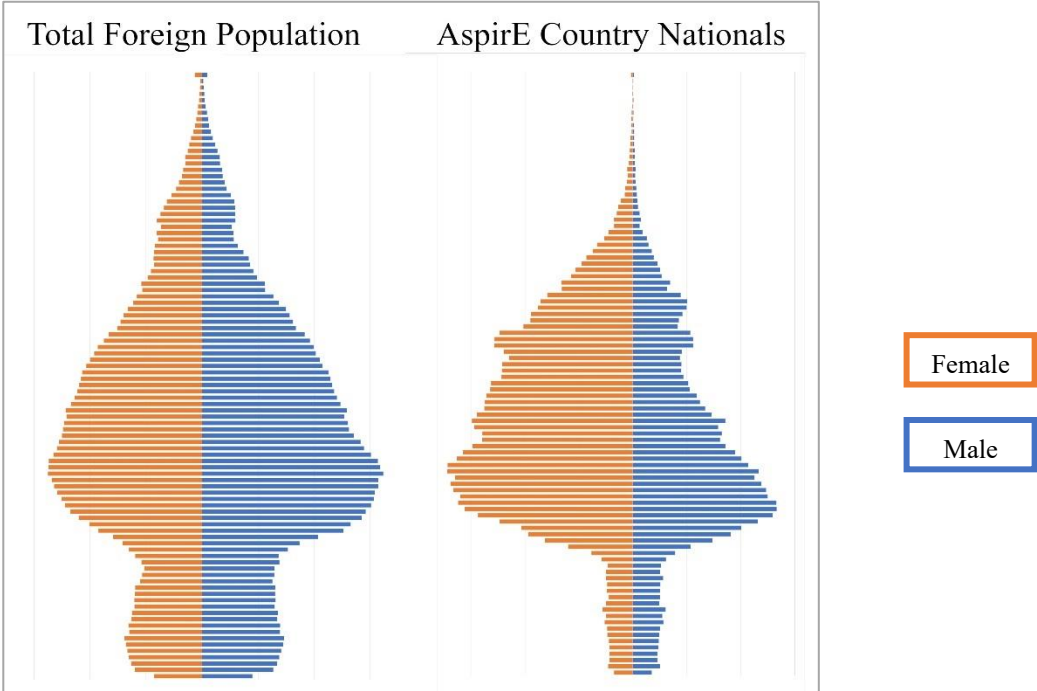
With 52.34% and 7,005,400 persons, there are slightly more male foreigners in Germany than female foreigners, who account for 47.66% and 6,378,519 persons. Statistics on the foreign population in Germany from 1967 to 2022 reveal that there have always been more male foreigners in Germany than female ones. However, since the turn of the millennium, graphs representing the male and female foreign population started to converge. The population pyramid of all foreigners living in Germany on the left side of Figure 5 shows that there are more males among the foreign population. In contrast, the population pyramid of AspirE country nationals on the right side of Figure 5 shows that there is a greater share of females among the immigrant population of countries represented by the AspirE project. This is based on the significantly greater share of females among the Thai, Filipino, and Japanese populations, as depicted in the individual population pyramids of these groups in Figure 6. The proportion of females and males in the Chinese and Vietnamese population in Germany is nearly balanced.

Figure 4: Immigration to Germany by the Ten Most Frequent Countries of Origin in 2022 in Per Cent



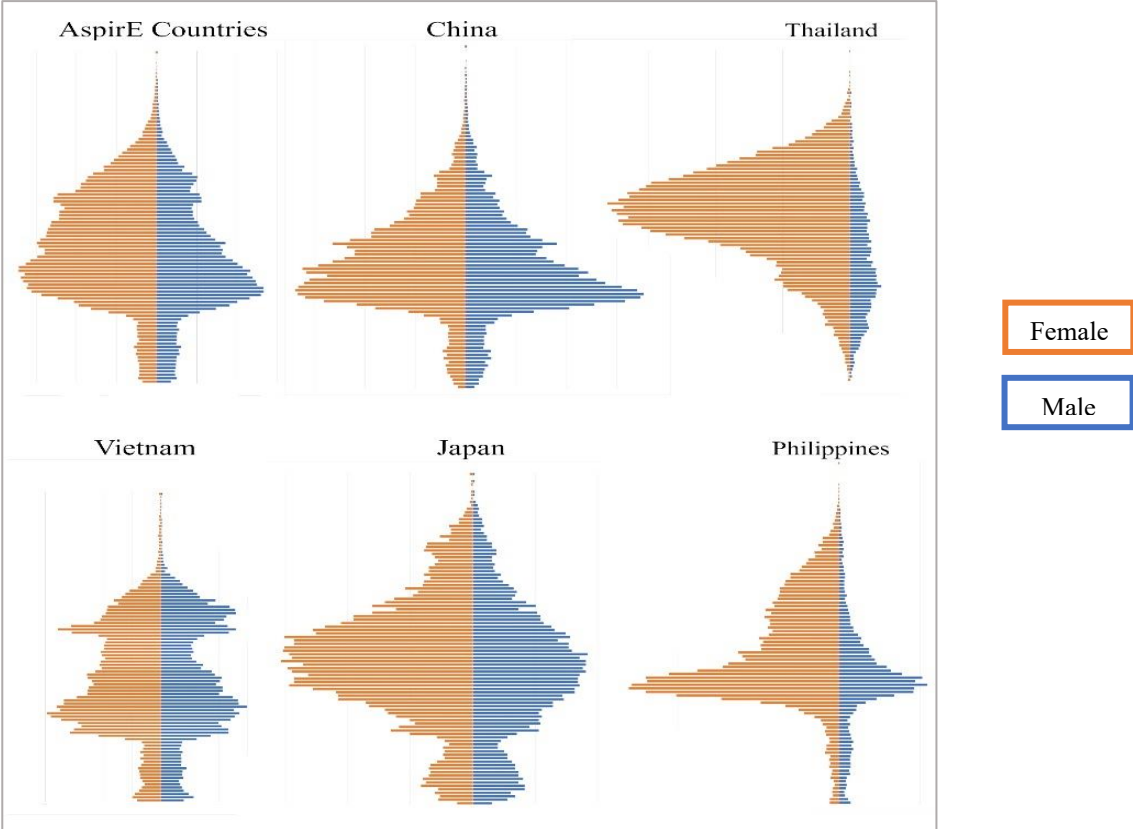
Source: Own representation and calculation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0⁶

Figure 5: Population Pyramids of Foreigners and AspirE Country Nationals in Germany in 2022



Source: Own representation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0⁷

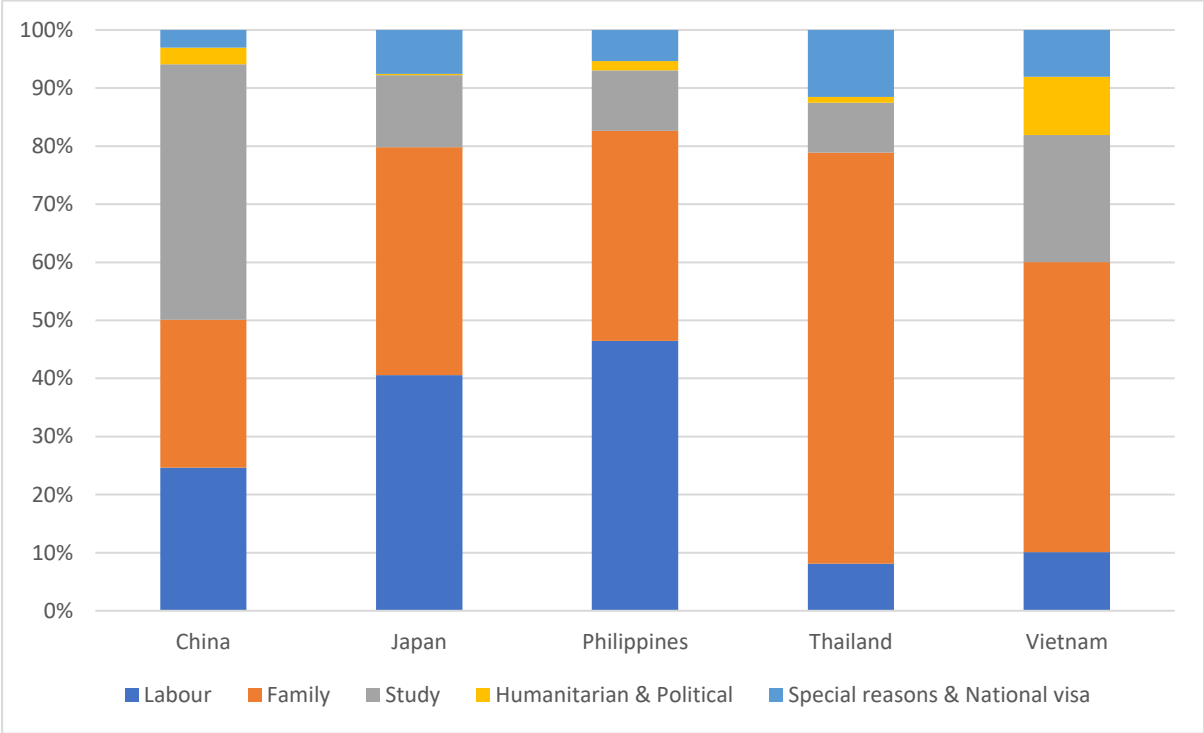
Figure 6: Individual Population Pyramids of AspirE Country Nationals in Germany in 2022



Source: Own representation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0⁸

Figure 7 gives more insight into the distribution of the different temporary residence permits among the immigrant populations of the countries participating in the AspirE project. As seen in Figure 7, most Chinese immigrants in Germany hold a temporary residence permit for study purposes, while most of the immigrants from Vietnam and especially from Thailand have a residence permit for family reasons. As for Filipinos and Japanese, temporary residence permits for labour and family reasons are almost evenly distributed, albeit with a slight tendency towards family-related residence permits among Japanese. The opposite is true for Germany’s Filipino community, with a minor shift from family-related residence permits to labour related residence permits since 2018, hinting at a growing Filipino community of skilled workers.

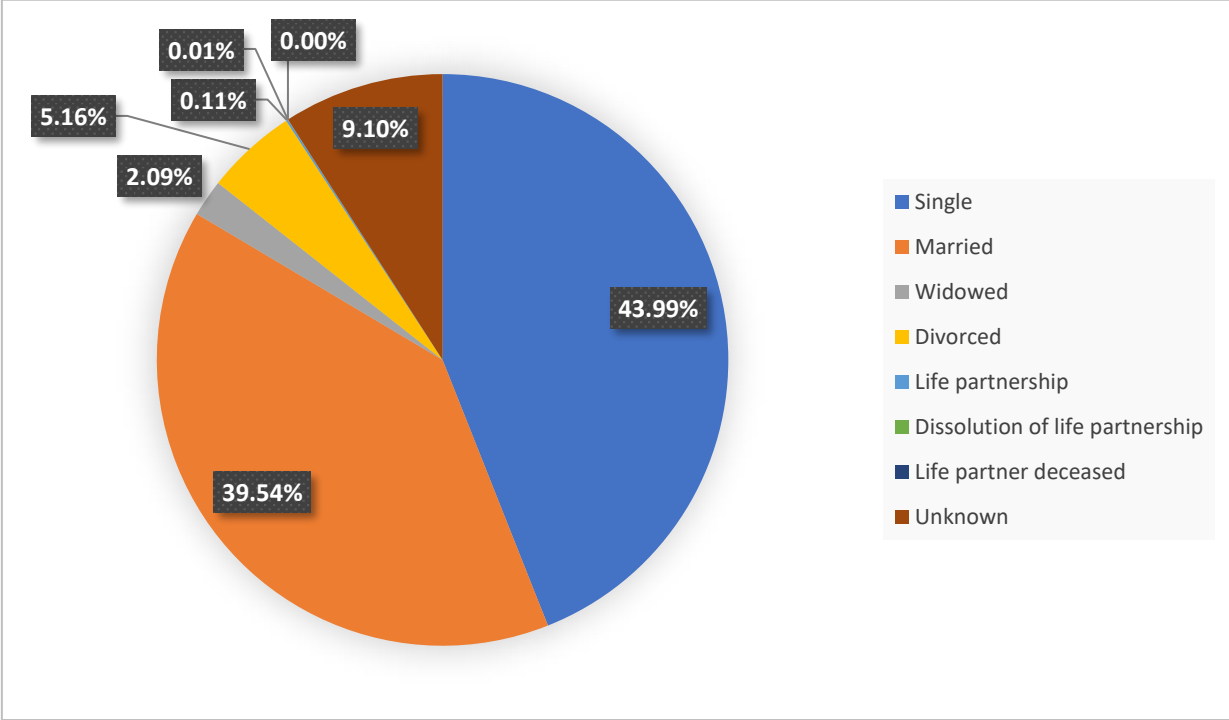
Figure 7: Temporary Residence Permits of AspirE Country Nationals in Germany by Purpose in 2022 in Per Cent



Source: Own representation and calculation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0⁹

As depicted in Figure 8, nearly half (43.99%) of the foreigners living in Germany are single, followed by more than a third of married persons (39.54%) and only 5.16% of divorced individuals.

Figure 8: Marital Status of Foreigners in Germany in 2022 in Per Cent



Source: Own representation and calculation based on the Federal Statistical Office of Germany (Destatis), Genesis-online, 2023, Data licence Germany – attribution – Version 2.0¹⁰

After presenting the immigration situation in Germany by shedding light on the composition of the foreign population and the characteristics of migrants living in Germany, the next chapter gives an overview of the history of the (im)mobility regime in Germany, focusing on the post-World War II period. While giving socio-historical details on immigration to Germany, it explains how Germany regulates the entry into and settlement of TCNs in its territory while also highlighting key mobility policies that regulate or control the immigration of TCNs and including bilateral diplomatic agreements on mobility between Germany and the Asian countries participating in the AspirE project. The following chapter presents the methodology utilised in this report. All analyses are conducted based on AspirE’s common blueprint and standardised guide, which can be found in the Annex, while also employing official legal texts. The main part of this report follows the chapter of methodology. It is comprised of six sections, each considering a different aspect of Germany’s migration policy: Schengen, tourism, labour migration, investment-based immigration, student mobility, and family reunification policy. The Appendix contains a table with key findings in paraphrased form for each of the six corresponding sections. In the subsequent chapter, the findings for each mobility policy are compared, and the research results are discussed. The conclusion then summarises the essential findings and provides the answer to the research question, “How does migration or the mobility regime in Germany consider aspiring remigrants’ behaviour in its policies?” or in other words, “To what extent do Germany’s mobility policies consider aspiring re-migrants’ behaviour?”

(Im)mobility Regime in Germany

In the 19th century, Germany was a country of emigration. Political upheaval and a desire for economic betterment motivated many Germans in the second half of the 19th century to leave the country, most of them for the United States. As early as the 1880s, however, the industrialising economy in the Western part of the newly founded German nation-state as well as the need for workers in the agricultural sector of Prussia became a pull factor for ethnic Poles living in Prussia, Russia, and Austria (Rietig & Müller, 2016).

After the Second World War, massive movements within and to Germany took place: Nearly 12.5 million expellees, refugees, and resettlers of former German territories arrived in West and East Germany. Integrating the aforementioned ethnic Germans into post-war German society proved to be a challenging endeavour, substantially shaping West Germany's citizenship law by bringing forth the 1953 Expellees and Refugees Law (Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge; Bundesvertriebenengesetz). It entitled ethnic Germans of Eastern, Central Eastern, and Southeastern Europe to German citizenship. According to Bendel (2014), these Germans "benefited from integration measures that were not offered to immigrants with non-German passports until 2005" (p. 2).

Adding to the approximately 12 million expellees, refugees, and resettlers, ten up to twelve million displaced persons were located in West and East Germany at the end of the Second World War. In addition, West Germany received approximately 2.7 million so-called "Übersiedler*innen" from the Soviet zone of occupation and later the GDR until the construction of the Berlin Wall in 1961. During that time, people entering Germany mainly were ethnic Germans, while other nationals, for example, prisoners of war, were deported. This was also true for foreign citizens who had already resided in Germany legally before World War II and had not returned in its course. For example, the remaining Japanese in Berlin, the most prominent Japanese community in pre-war times, were forced to leave the country by train. Taken home by the Transsiberian Express, they were fated to experience the defeat of Japan firsthand (Bieber, 2014).

'Guest Worker' Recruitment, the Labour Recruitment Ban, and Family Reunification

During Germany's postwar growth (German economic miracle), Germany reached full employment in the middle of the 1960s. Since domestic workers alone could not meet the needs of a further growing German economy, the demand for foreign labour rose. Consequently, Germany recruited "Gastarbeiter" (guest workers) from Southern Europe and Mediterranean countries. This large-scale recruitment marked the first turning point in Germany's migration policy (Hess & Green, 2016). The first official agreement was signed in 1955 between Italy and Germany. It was followed by Spain and Greece in 1960 and Türkiye in 1961. From the 1960s onwards, the leading country of origin of guest workers was Türkiye, which still shapes the composition of today's foreign population in Germany immensely. However, the guest worker agreements were not unilaterally in the German interest since several sending countries even requested an expansion of already agreed migrant numbers or to be also considered by the 'guest worker' programme in the first place (Borkert & Bosswick, 2007). At that time, the German government and the sending countries expected the individual workers to only stay and work in Germany for a couple of years and then return home, thus, creating a rotation system between entering and leaving guest workers. Because of this, the German government assumed that integrating those guest workers was unnecessary and that an active integration policy would be redundant. However, companies considered the rotation system as mentioned above, in which they had to let experienced people go after a set period, to be uneconomically and therefore continued to employ guest

workers for longer than initially intended. However, during the recession from 1966/67 and the oil crisis weakening the economy, more and more guest workers were laid off. In 1970, the central government formulated integration measures for the first time. In the Basic Principles for the Integration of Foreign Employees (Grundsätze zur Eingliederung ausländischer Arbeitnehmer) of 1970, two aims were stated: 1) The foreign labourers in Germany, mainly guest workers, were supposed to be integrated into the labour market. 2) The number of foreigners was to be reduced. Language training programmes, as well as educational support, were not supposed to be established. On the 23rd of November 1973, the German government, formed by the socio-democratic SPD and the liberal FDP, imposed a 'recruitment ban' (Anwerbestopp) on guest workers and ended the guest worker programmes. However, contrary to policy-makers' intention, nearly three million guest workers had already settled in West Germany, when the 'recruitment ban' was issued. They were soon joined by their families still living in their countries of origin or started one, often choosing to marry from their home countries. Therefore, despite the recruitment ban, the number of foreigners in Germany increased. Despite the 1978 Memorandum on the Status Quo of Immigrant Integration (Stand und Weiterentwicklung der Integration der ausländischen Arbeitnehmer und ihrer Familien in der Bundesrepublik Deutschland) by Heinz Kühn, the first commissioner of foreigners (Ausländerbeauftragter), which stated that Germany was an immigration country and called for better integration measures, significantly better access for younger immigrants to the German education system and labour market, the German government declared in the 1977 Provision on Naturalisation (Einbürgerungsrichtlinie) by Federation and States that Germany was not an immigration country (Hess & Green, 2016).

Asians in Post-War Germany

While there were already a few Asians in Germany before World War II, the war broke political relations and civilian contact between countries. Political and economic relationships were resumed in the post-war period. As early as the 1950s, Japan started to invest in Germany and send expatriates to foreign subsidiaries. Driven by the fear of an oncoming labour shortage due to the German recruitment ban, Japanese companies started to hire surplus workers to secure their Japanese workforce. In July 1956, the Japanese and German governments signed an agreement to send Japanese miners to the chief coal mining and industrial region of Germany, the Ruhr area in North Rhine-Westphalia. The "Programm zur vorübergehenden Beschäftigung von japanischen Bergarbeitern im Ruhrkohlenbergbau" was continued in 1960 but all in all it did not prove very successful. Moreover, nearly 8,000 South Korean miners were employed in the Federal Republic of Germany between 1963 and 1980 with the help of the "Programm zur vorübergehenden Beschäftigung von koreanischen Bergarbeitern im westdeutschen Steinkohlenbergbau" (Woon-sup & Hae-dong, 1995). Since 1971, a further 10,000 South Korean nurses were recruited. Additionally, nurses and care workers from the Philippines were recruited from 1965 onwards to a lesser degree (Coi & Lee, 2005; Etling, 2008). On the 10th of July 1967, Germany and Thailand signed a Double Taxation Avoidance Agreement to avoid double taxation on Thai citizens in Germany and vice versa. While at the end of the 18th century, mainly wealthy male Thais immigrated to Germany to study, poor Thai women arrived in Germany from the 1970s onwards. Most of them came from low-income families based in North and Northeast Thailand. The low-skilled labourers aimed to send money to their families (Duscha, 2014).

The first Vietnamese arrived in East Germany in 1955 as pupils who were also known as "Moritzburger," a group of 348 pupils between the ages of 10 and 14 who went to school in Moritzburg, a city close to Dresden, as part of a solidarity initiative between the Democratic Republic of North Vietnam and the German Democratic Republic. After graduating, most Vietnamese pupils stayed in Germany and studied in the GDR. As adults, they returned to their home country and

gained influential positions while cultivating their transnational social network. The first Vietnamese migrating to the FRG in the 1960s were students. They came from the former “Republic of Vietnam” in the country’s South and originated from privileged families. Nearly half of them studied with the help of state scholarships from their home country. Before the end of the Vietnam War, those Vietnamese migrants were mainly students who stayed in Germany as highly-skilled workers. Besides this group, a small number of Vietnamese children were sent to West Germany as war orphans between 1967 and 1975. At the same time, Vietnamese students, pupils, apprentices, and interns arrived in the GDR. Most returned to Vietnam after education (Schaland & Schmiz, 2015). After the end of the Vietnam War in 1975, the majority of Vietnamese arriving in the FRG came as refugees. In the beginning, these refugees were mainly comprised of high-ranking military personnel and political officials, whereas after 1978, the group of refugees diversified. Among them were Chinese minorities, religious groups, members of the elite, impartial persons, highly-skilled workers, and farmers, to name a few. Many of them tried to escape via boat and were therefore called “boat people.” Their numbers are estimated at approximately 23,000 to 38,000 Vietnamese refugees (Beuchling, 2003; Schaland & Schmiz, 2015). Initially, they were accepted following the Geneva Convention as quota refugees, and from 1979 onwards, often on the grounds of family reunification. They received a residence permit, a work permit, vocational training, statutory financial support, and language courses paid for by the government (Schaland & Schmiz, 2015). Furthermore, similarly to the recruitment programmes in West Germany, the GDR recruited close to 100,000 guest workers, so-called “Vertragsarbeiter”, during the 1980s. The largest group came from Vietnam, and others from Angola, Mozambique, Cuba, and Poland. They also were recruited temporarily and worked and trained in the country’s state-owned enterprises. The recruitment of approximately 70,000 Vietnamese started in 1980 and was part of a bilateral agreement between the Staatssekretariat für Arbeit und Löhne and the Vietnamese Ministry of Labour. The driving force for participants to join the programme was remittances to the family in Vietnam. The Vietnamese Vertragsarbeiter were also obliged to transfer 12% of their salary to the Vietnamese government to develop and protect the home country (Schaland & Schmiz, 2015).

After the fall of the Berlin Wall, the future was uncertain for the Vertragsarbeiter. In its final stages, the GDR government pushed for expediting their return by re-negotiating bilateral agreements with Vietnam and other countries and giving monetary incentives to return to one’s country of origin. During the German reunification, former Vertragsarbeiter officially lost their residence permit. According to the Federal Agency for Civic Education (Bundeszentrale für politische Bildung), 94,000 contractual workers were present in the GDR after the reunification, including nearly 60,000 Vietnamese. After the reunification, official numbers doubled because of the statistics of East and West Germany being put together. At that time, some Vietnamese living in the former ‘Eastern Bloc’ applied for asylum in Germany but were rejected. In this regard, the transition phase of German reunification until the mid-nineties was shaped by legal uncertainties and civil protests favouring former contractual worker’s rights. During that time, many Vietnamese were tolerated, not least since Vietnam did not accept their return. Because of economic hardships after the reunification, many Vietnamese in Germany became self-employed in trade and gastronomy to obtain a residence permit. From 1991 onwards, most Vietnamese migrated for family purposes or applied for asylum. Schaland and Schmiz (2015) state two common strategies for Vietnamese to obtain a residence permit in Germany. One possibility is via sham marriage or by having children with a German national. The other possibility is as specialty chefs. In this case, family members who run a restaurant in Germany can hire a relative as specialty chef if the relative has passed a vocational training of two years or worked in a restaurant for six years in the home country. An agreement signed on the 21st of July 1995 promised Vietnamese citizens residing in Germany a 3000 DM governmental incentive for their return to

Vietnam. Due to further immigration and family reunification, however, the number of Vietnamese nationals in Germany rose to more than 80,000 in 2012 (Wolf, 2007).

As for Chinese nationals, emigration from the People's Republic of China was prohibited from the 1950s onwards; hence, only a few lived in Germany after World War II. Thus, immigration from China occurred later and was only permitted after the country's opening under Deng Xiaoping from 1978 onwards. In 1979, economic reforms in China led to a sharp increase in Chinese migrants coming to Germany. According to Giese (2003), the "Chinese population [in Germany] increased 64 times, whereas the foreign population in Germany in general less than doubled during the same period" (pp. 157–158). In the aftermath of the Tiananmen Square Protests and its violent suppression by the Chinese government on the 4th of June 1989, all Chinese students present in Germany at that time were granted long-term residence permits under preferential conditions for humanitarian reasons (Giese, 2003). Giese (2003) points out that many of them remained in Germany, having found intra-ethnic relationships, or only temporarily returned to China to initiate family reunification after securing long-term or permanent residence permits in Germany.

Immigration after the Reunification of East and West Germany

The second turning point in Germany's migration policy was the unification of East and West Germany in 1989, after which the number of immigrants increased again. The increase can mainly be attributed to three migration movements. Firstly, reunified Germany was affected by internal migration. Many Germans moved from the former territories of the GDR to former West Germany. While most migrants headed to West Germany, there was, nevertheless, still a small number heading to the former GDR. However, not only German nationals left for West Germany between 1990 and 1993 but also nearly 1.4 million ethnic Germans from Central and Eastern Europe and the former Soviet Union as well as so-called Jewish quota refugees were on the move after the fall of the Iron Curtain. Before lifting the Iron Curtain, they passed through West German Border Transit Centres for Resettlers. From 1987 on, the numbers were increasing significantly against the backdrop of "Glasnost" and "Perestroika". Besides this internal movement, the number of asylum applications rose. Due to the transformation of the former states of the 'Eastern Bloc,' refugees from former Yugoslavia, its successor states, East Europe, Türkiye, and the Middle East reached Germany. Lastly, there was labour migration mainly consisting of persons coming from the youngest member states of the EU in Eastern and Central Europe. Immigration to Germany was facilitated for aspiring migrants from the newly joined EU member states against the background of the economic recovery after the financial crisis (Hess & Green, 2016; Hanewinkel & Oltmer, 2018).

In contrast to the welcoming attitude towards labour migrants from the new EU member states, the German migration policy of that time had long been aiming to reduce the number of ethnic German resettlers and Jewish quota refugees with the help of the 1953 Expellees and Refugees Law. According to the 1989 Law of Residence Assignment (Wohnortszuweisungsgesetz), incoming resettlers were allocated to their first place of residence for at least two years, based on regional population density and economic performance to avoid agglomerations (Königsteiner Schlüssel). This was met with the reluctance of family members to migrate since they may have been allocated to different places of residence. Against the background of increasing xenophobic attacks and a resurgence of extremist parties, the mainstream parties agreed on a far-reaching compromise on the 6th of December 1992, which involved the restriction of Germany's constitutional right to asylum in return for the curtailment of ethnic German migration from Eastern Europe and the former Soviet Union. In 1993, the German government issued the Adjustment of

Laws on the Effects of War (Kriegsfolgenbereinigungsgesetz). Due to prior criticism about family separations of resettlers, the involvement of immigrating family members was facilitated. Henceforth, resettlers could immigrate with descendants such as a daughter or son-in-law, stepson or stepdaughter. To further curb ethnic German migration, language tests were introduced in the country of origin after 1996. The principal applicant of the family had to be able to conduct a simple conversation in German. If the applicant passed the test, the whole family was allowed to immigrate. Furthermore, resettlers were penalised by cutting social security and unemployment benefits if they left their assigned place of residence within the first two years. Since 2005, incoming resettlers and all family members must prove German language skills before immigration. The Asylum Compromise (Asylkompromiss) of 1993 introduced the Safe Third-Country Rule (Drittstaatenregelung). According to that rule, all EU member states are safe third countries. Therefore, asylum seekers arriving at German borders can be sent back to safe third countries without an asylum application or an application for international or national protection being considered. Due to the rule, the Federal Police can refuse entry if a foreigner who has entered from a safe third country requests asylum at the border. The asylum seeker can be immediately removed to a safe third country if they do not carry the necessary documents with them. Since there are no systematic border controls at land borders and the return of asylum seekers can only be carried out under the Dublin regulation, the measures have been largely ineffective (Kaucher, Deckert, Becher & Winkler, 2017).

Changes in Germany's Migration Policy: Recognition as Immigration Country and the First Immigration Law

The third turning point, the 1998 Federal Election, led to significant changes in Germany's migration and integration policy. The first red-green federal government under Chancellor Gerhard Schröder recognised Germany as an immigration country and passed a new Citizenship Law in 1999. This law replaced the principle of descent (*ius sanguinis*; Abstammungsprinzip) with the acquisition of citizenship through place of birth (*ius soli*; Geburtsortsprinzip). Therefore, children born in Germany to foreign parents receive German nationality by birth, provided that the parents fulfil specific residency requirements. If the children have more than one nationality, they must choose one, in case they did not grow up in Germany. The new nationality law leads the way to naturalisation after eight years of righteous stay (Hess & Green, 2016).

To counter demographic change and emerging shortages in highly-skilled professions, especially in the so-called "New Economy" of the late 1990s, Chancellor Schröder announced the 'Green Card' scheme at the 2000 Hanover trade fair, which helped pave the way for the passing of Germany's first immigration law (Zuwanderungsgesetz) in 2004. The Immigration Act and the included Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory came into force in 2005, enabling immigration of TCNs for the first time since the recruitment ban (Hess & Green, 2016). In contrast to the guest worker contracts (Gastarbeiterabkommen) of the post-war period, this law aims at highly-skilled workers and permanent immigration and integration into German society. It does not apply to citizens of the Union and members of diplomatic and consular missions. In the case of citizens of the Union, the Act on the General Freedom of Movement for EU Citizens is applied. The Residence Act is meant to enable, regulate, and control the immigration and economic activities of TCNs. It takes the capacity for admission and integration and the interests of the FRG in terms of its economy and labour market into consideration. It reduced the number of residence titles to only two: a temporary residence permit and a permanent residence permit. Additionally, one of 60 purposes of stay is now always included in the residence permit. The right to work is currently regulated by the Residence Act instead of the Social Code III and applied by the foreigners authority instead of

the Federal Employment Agency. It, too, is registered in the residence permit. A distinction is made between being employed as an employee and self-employment. Besides the Residence Act, Germany signed two agreements with Japan in that period of time. The Agreement between Japan and Germany on Social Security signed on the 1st of February 2000 established and provided legal groundwork for formal social security benefits for Japanese and German citizens on each state territory. The bilateral Agreement on Working Holiday Programme started with Germany in 2000 and allows young adults from 18 to 30 years to live and work for up to 12 months in the country of the agreement partner to experience culture and lifestyle (Ministry of Foreign Affairs of Japan, 2023). Another agreement was signed between the European Community and the Macao Special Administrative Region of the People's Republic of China on the 1st of June 2004. The parties agreed on the readmission of persons residing without authorisation in the European Community. The agreement is supposed to enhance the legal basis for handling illegal Taiwanese migrants on the territory of the European Community with emphasis on reintegration (EC & Macao, 2003).

Since 2008, migrants have had to take and pass a naturalisation test. To encourage the immigration of highly-skilled migrants, the Council Directive of the 25th of May 2009/50/EC on the Conditions of Entry and Residence of Third-Country Nationals for the Purpose of Highly Qualified Employment (Hochqualifiziertenrichtlinie) was enacted in 2009. It came into effect on the 1st of August 2012. It introduced the EU Blue Card (Section 18b (2) of the Residence Act), a special residence title for foreign academics seeking qualified employment in Germany. The EU Blue Card applies to 25 of the 27 EU countries. It does not apply in Denmark and Ireland. Due to Chancellor Schröder's Agenda 2010, there was a lengthy internal economic adjustment process. Net migration to Germany dropped sharply after 2001 and even turned negative in 2008 and 2009, as mainly German citizens increasingly looked abroad for opportunities to work (Hess & Green, 2016). Since 2012, the Law to Improve the Assessment and Recognition of Professional and Vocational Education and Training Qualifications Acquired Abroad, in short the Federal Recognition Act (Gesetz zur Verbesserung der Feststellung und Anerkennung im Ausland erworbener Berufsqualifikationen; Anerkennungsgesetz, in short BQFG) facilitates the recognition of qualifications obtained abroad. Under the Federal Recognition Act, every foreign skilled worker is legally entitled to have their professional qualification examined for equivalence. This applies if the qualified worker has a foreign professional qualification and intends to exercise gainful employment in Germany. Recognition of professional qualification was obligatory for obtaining a visa. Therefore, TCNs had to establish the total equality of their foreign qualification (vocational training), regardless of whether they are to work in a regulated or non-regulated profession (Section 18 (2) no. 4 of the Residence Act; Chapter 2, Section 9 of the BQFG).

Under the reform of the migration policy, integration courses were introduced, and various actors, such as federal states, communes, churches, and actors of the civil society, were involved in integration-related offers. The former Federal Office for the Recognition of Foreign Refugees (Bundesamt für die Anerkennung ausländischer Flüchtlinge), now Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge), was assigned a new area of competence by being responsible for the integration of immigrants (Bendel, 2014).

In 2013 and 2014, two further bilateral agreements were signed between Germany and one of the participating Asian countries in the project. Firstly, Germany signed a labour agreement with the Philippines called Triple Win Nurses, which guarantees the sustainable recruitment of nurses from third countries for employment in Germany (Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH, 2022). Secondly, on the 3rd of March 2014, the Philippines and Germany signed an agreement on social security. The agreement established and provided the legal

groundwork for formal social security benefits for the two country's nationals on each state territory (Philippine Embassy Germany, 2014).

Migration Policy against the Background of Large-Scale Flight

Following Hess and Green (2016), the year 2015 can be regarded as a fourth turning point in German migration policy. Immigration was at its highest in the history of the Federal Republic of Germany, primarily due to the large influx of asylum seekers. According to the Federal Agency of Civic Education, in 2015, 2.14 million people immigrated to Germany, while approximately 998,000 people left the country during the same period. This results in a migration surplus of 1.14 million people. Over the past few years, most immigrants arrived from European countries, especially from EU member states. The year 2015 was an exception. Due to a large number of asylum seekers from countries outside of Europe, the share of citizens of the EU among all immigrants was only around 40%. The new immigrants' primary home country was Syria, with Romania and Poland following. The arriving refugees were welcomed in the beginning, but with increasing numbers, anti-immigrant sentiment and xenophobia soon rose among the autochthonous population. The government reacted with the Asylverfahrensbeschleunigungsgesetz (now Asylgesetz, so-called Asylpaket I) of the 20th of October 2015. The Asylgesetz included in the list of safe third countries Albania, Kosovo, and Montenegro. Suppose an aspiring asylum seeker has yet to apply for asylum, the person has to be registered and receive a Certificate of Registration as an Asylum Seeker (Bescheinigung über die Meldung als Asylsuchender). The certificate contains information on the person and a photo as well as the name of the reception centre, to which the person has to go immediately. These regulations were changed by the Data Sharing Improvement Act (Datenaustauschverbesserungsgesetz). The number of months an asylum seeker has to stay in a reception centre has increased from three to six months. Asylum seekers from safe countries of origin (sichere Herkunftsstaaten) must stay until the asylum application is accepted or refused. If denied, the applicant must remain in the reception centre until their departure or deportation. The applicant is only allowed to stay in the district of the Foreigner's Office. After three months, an asylum seeker can get permission to work under specific requirements. However, as long as the asylum seeker is obligated to stay in the reception centre, the asylum seeker is not allowed to work. Foreigners from safe countries of origin are not allowed to work for the duration of the asylum procedure. Under the Asylgesetz of 2015, asylum seekers can now participate in integration courses. The Act on the Redefinition of the Right to Stay and the Termination of Residence (Gesetz zur Neubestimmung des Bleiberechts und der Aufenthaltsbeendigung) of the 27th of July 2015 already implemented changes regarding eviction and deportation. The date of deportation is no longer announced (Deutscher Bundestag, 2016).

Asylpaket II of the 5th of November 2015 includes measures to speed up the asylum procedure for persons with a slight chance of recognition as refugee, as well as a standard identification card for asylum seekers, and a database to identify asylum seekers quickly. Family reunification is halted for applicants of subsidiary protection from the 5th of November 2015 for the duration of two years. Language and integration courses will be paid by oneself up to a certain amount (Deutscher Bundestag, 2016).

In March 2016, the government supported closing the Balkans route and terminating the EU-Türkiye-Contract. All migrants and asylum seekers who irregularly arrived in the EU or mainly on the Greek islands were supposed to return to Türkiye. In 2017, those measures started to have an effect: The number of asylum applications decreased, the handling of applications proceeded, and the acceptance and settlement of refugees were organized (Bauer-Blaschkowski, 2022).

Between 2013 and 2017, during the 18th legislature period, the grand coalition focused on forced migration, its restrictions, and control. To control migration, the coalition agreement of 2018 established a quota of 180,000 to 220,000 migrants per year. Recognised refugees under the Basic Law and the Geneva Convention and so-called “Erwerbsmigrant*innen“ were exempted. Until July 2018, family reunification of people granted subsidiary protection was stopped and afterwards, with a monthly quota of 1000 dependants, regulated in the Law for the Revision of Family Reunification for Persons with Subsidiary Protection Status (Gesetz zur Neuregelung des Familiennachzugs zu subsidiär Schutzberechtigten) of August 2018. In addition, the Third Law on Changing the Asylum Law passed and implemented new obligations to cooperate with regard to return and revocation procedures as well as sanctions if there was no cooperation. The Secretary of the Interior, Horst Seehofer, initiated the implementation of so-called anchor centres (Ankerzentren), arrival centres for asylum seekers. The anchor centres were supposed to regulate and control asylum seekers’ arrival, distribution, and, if needed, the return of asylum seekers; however, the anchor centres were not implemented everywhere since some federal state governments rejected them due to political reasons or had already implemented comparable centres. In the course of the migration package of June 2019, the Second Act for an Improved Enforcement of the Obligation to Leave the Country (Zweites Gesetz zur besseren Durchsetzung der Ausreisepflicht, also known as Orderly Return Act/”Geordnete-Rückkehr-Gesetz) was passed. The Act to Remove the Time-Limit of the Integration Act (Gesetz zur Entfristung des Integrationsgesetzes) perpetuated the residence requirement for refugees of 2016. The First and Second Data Sharing Improvement Act (Erste und Zweite Datenaustauschverbesserungsgesetz) formed the legal basis for the expansion of the Central Register of Foreigners into a core data system and the associated simplified conditions for storing additional facts and for transmitting data to other public agencies. The Third Act on the Amendment of the Act on Benefits for Asylum Seekers reframed and cut the calculated monthly amounts (Bauer-Blaschkowski, 2022).

Strict Separation between Labour Migration and Forced Migration

German policies explicitly contrasted labour migration with forced migration. Labour migration to Germany was expected to be based on the needs and demands of the economy, the qualification, age, and language proficiency of the migrant, as well as the possession of an employment contract and proof of a secured life. Part of the migration package of 2019 were various changes in asylum and migration policies related to the labour market. The Immigration Act for Skilled Workers (Fachkräfteeinwanderungsgesetz) came into force on the 1st of March 2020, changing the labour migration from the ground up. The immigration for skilled workers with vocational qualification and those who graduated from a German higher education institution was facilitated by an easier recognition of degrees, extended opportunities for job seekers, and an opening of the labour market in general. Besides this, both groups of skilled workers were equated. Furthermore, the conditions for obtaining a settlement permit as a foreign skilled worker were liberalised. Thus, the act included new regulations regarding the entry, stay, procedure, and the prospect of staying (Bleibeperspektive) while explicitly targeting foreign skilled workers, whose immigration would benefit Germany’s economy by counteracting its cross-sectoral shortage of skilled workers (Bauer-Blaschkowski, 2022).

With the help of the Act to Promote the Training and Employment of Foreigners (Gesetz zur Förderung der Ausbildung und Beschäftigung von Ausländerinnen und Ausländern) of the 8th of July 2019, access to statutory payments to support people undergoing vocational training as well as access to integration and vocational language courses was granted to specific groups of refugees, which were excluded priorly. As part of the Third Act on the Amendment of the Asylum Seekers’ Benefits (Drittes Gesetz zur Änderung des Asylbewerberleistungsgesetzes) of the 20th

of August 2019, statutory financial support for asylum seekers undergoing vocational training or attending university as well as for asylum seekers who work voluntarily were extended and introduced, respectively. At the same time, basic subsistence for asylum seekers, according to the Asylum-Seeker's Benefits Act (Asylbewerberleistungsgesetz), was re-calculated, and benefits were, in part, reduced. Through the Act on the Suspension of Removal for Vocational Training and Employment (Gesetz über Duldung bei Ausbildung und Beschäftigung), already existing possibilities for refugees undergoing vocational training or attending university to obtain the „tolerated“ status were expanded (Ausbildungsduldung). The so-called Tolerated Stay for Work (Beschäftigungsduldung) was introduced, a special tolerance permit based on employment. Moreover, through changes in the Tolerated Stay for Work, the Vorrangprüfung (priority check) regarding labour market access for asylum seekers with permission to remain pending the asylum decision as well as asylum seekers with the “tolerated“ status was omitted permanently and nationwide. The Vorrangprüfung was used to determine if a job vacancy could be filled with a preferred candidate holding a German or EU citizenship or a foreign person holding a residence permit or title. In the summer of 2019, the German Bundestag passed the Third Act to Amend the Nationality Act (Dritte Gesetz zur Änderung des Staatsangehörigkeitsgesetzes). It implemented terrorist acts committed abroad while holding dual citizenship as reason for loss of citizenship as well as acculturation to daily life in Germany as a new requirement for naturalisation while excluding persons in polygamous marriages. At the end of 2019, within the context of the Act on the Further Fiscal Promotion of Electromobility and on the Amendment of Other Tax Regulations (Gesetz zur weiteren steuerlichen Förderung der Elektromobilität und Änderung weiterer steuerlicher Vorschriften), new regulations concerning the right of residence for British citizens in Germany were established due to Brexit. In 2020, the so called “Westbalkanregelung“, introduced in 2016 as a part of the Ordinance of the Employment of Foreigners, was extended to 2023. It makes access to the labour market easier for people from the Western Balkans, namely Albania, Bosnia Herzegovina, Kosovo, North Macedonia, Serbia, and Montenegro. Nevertheless, in the course of the extension, an annual quota was introduced. Thus, another plan included in the coalition agreement was put into effect. Additional changes to the nationality law were made in 2021. On the one hand, ways to acquire citizenship for persons who were persecuted by the Nazi regime and their descendants were expanded; on the other hand, naturalisation after being convicted of xenophobic, racist, antisemitic, or inhuman crimes was ruled out (Bauer-Blaschkowski, 2022).

Migration Policy in Germany in Times of the Global Pandemic (COVID-19)

Migration and asylum were marked in 2020 and 2021 by the coronavirus pandemic. Instead of migration policy, the decline in all migration from March 2020 onwards resulted from restricted international mobility due to infection protection measures. Significantly affected were the entry and stay of TCNs and the execution of the asylum procedure. On the 17th of March 2020, the Federal Ministry of the Interior and Community imposed an entry ban on TCNs and refused them entry at the borders. At the same time, visa application centres abroad were closed, and air traffic was reduced drastically. Restrictions on seasonal migrants such as harvesters were avoided as far as possible or lifted after a short duration of time. Asylum seekers were officially not affected by those measures. However, the implementation of those measures involved the entry, the asylum procedure, and the exit of refugees in 2020: On the 18th of March 2020, the resettlement-process as part of the EU-Türkiye-Agreement and the resettlement-process of the Federal States was stopped by the Federal Ministry of the Interior and Community (Resettlement-Verfahren im Rahmen des EU-Türkei-Abkommens und die Resettlement-Verfahren des Bundes). Due to the visa application centres closing, family reunification was also halted until July 2020. According to the Dublin Regulation and the voluntary return support programme REAG/GARP, transfers were also paused until June 2020. Adding to that, the Federal Ministry of Interior and Community

enacted ordinances to preempt the negative consequences of reduced working hours or pay cuts due to the pandemic on the issuance of residency permits. The Federal Office for Migration and Refugees was, in particular in spring 2020, only available to a limited extent: Hearings in person were temporarily halted, asylum applications had to be filed in written form, rejected asylum applications were not sent until May 2020 and in 2019 implemented consultations on asylum procedures were ceased. The spreading COVID-19 pandemic also slowed down the influx of labour migrants, which affected the Immigration Act for Skilled Workers (Fachkräfteeinwanderungsgesetz). The Act came into force on the 1st of March 2020 (Bundesamt für Migration und Flüchtlinge, 2023). On the 3rd of December 2020, Germany and Vietnam signed the bilateral agreement “Hand in Hand for International Talents,” which aims to recruit Vietnamese skilled workers to find employment in Germany. They are supposed to be treated as German workers and gain work experience within two years. Two years later, on the 12th of December 2022, Germany and Taiwan facilitated the immigration process of the respective nationals with the help of the EasyPass system in Germany and the Taiwan e-Gate system in Taiwan (Deutsches Wirtschaftsbüro, 2022).

Methodology

The content analysis of the six mobility policies – Schengen, tourism, labour migration, investment-based immigration, student mobility, and family reunification policy – is based on legal texts at the country level, following the project’s common blueprint. The “mirror image” analysis of the legal basis of TCNs’ mobilities to and within the EU answers the following questions: Are there any specific articles, rules, or clauses that address the change of mind of a labour migrant, an investor, a tourist, or a student who for example decides to overstay their visa instead of returning to their country of origin? If so, how do these (im)mobility laws relate to gender, class, or ethnicity? Who is exempt and who is not? What temporalities are reinforced or produced in the process?

The guide for the analysis is standardised and based on the pilot content analysis of Belgium’s family reunification policy conducted by the coordinating institution, Université libre de Bruxelles (ULB). The analysis identified five key themes in the policy: guarantees, benefits, penalties, forgiveness, and referrals. Guarantees refer to the requirements that Germany, as a state receiving migrants, expects individuals to meet when applying to enter its territory. Benefits refer to the privileges and advantages that individuals receive upon entering their receiving country. Penalties are the punishments that a receiving state imposes on individuals who have violated the law or fail to meet the requirements to stay. While forgiveness suggests granting individuals who have broken the law an opportunity to remain in the receiving state, referrals point to the links between different laws on mobility. In addition to these five themes, the coordinating institution has identified three important dimensions of a mobility policy: actors, characteristics, and temporality. Actors refer to the individuals mentioned in the policy, characteristics refer to the features or qualities of the individuals mentioned in the policy, and temporality refers to the duration given to individuals to stay in a given country and move within the EU Schengen area, as well as the number of years required before a certain legal status can be attained. The standardised guide contains a table that organises these themes and dimensions. The completed tables for each policy can be found in the Appendix. For further analysis of each policy, the standardised guide provides ten key questions: one for each theme and dimension, and two concluding questions. The questions aim to identify the State’s assumptions behind specific information stated in each policy. By understanding these underlying assumptions, we can answer the question of whether the State considers an individual’s changing or unpredictable behaviour when writing its mobility

policies. To provide context for the analysis of the six mobilities, scholarly literature is used to give insights into the socio-historical background of immigration to Germany. The GENESIS-database of the Federal Statistical Office of Germany (destatis) contains data on the number, composition, and characteristics of immigrants residing in Germany. The data is analysed for all foreign residents in Germany, as well as for Asian immigrants and for those of the AspirE countries specifically. The analysis is based on the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (in short Residence Act), which was amended on the 8th of October 2023. The legal texts analysed include the EU Freedom of Movement Act (Gesetz über die allgemeine Freizügigkeit von Unionsbürgern), the Ordinance on the Employment of Foreigners (Beschäftigungsverordnung), and the Act to Combat Undeclared Work and Unlawful Employment (Schwarzarbeiterbekämpfungsgesetz), and the Ordinance Governing Residence (Aufenthaltsverordnung), which outlines the fees for visas and the cost of obtaining a permanent residence permit. In addition to Sections 95 and 98 of the Residence Act, Section 404 of the Social Code III provides further information on penalties. Information on labour migration in Germany is based on various sources, including the website of the Federal Government for skilled professionals overseas, Make it in Germany, the Federal Ministry of the Interior and Community, the Chamber of Commerce and Industry of the Stuttgart region, and the Federal Office for Migration and Refugees. The last was also used to gather information on student mobility. The chapter titled “Student Mobility Policy” also contains information from higher education laws of the federal states. The chapter “Schengen Policy” refers to information from the website of the Federal Office, while the chapter titled “Policy on Tourism” refers to information from the official website of the European Travel Information and Authorisation System (ETIAS).

Human Behaviour in Germany’s Mobility Policies: Key Results

The following six chapters analyse the selected policies with regard to the dimensions (actors, characteristics, and temporality) and the themes (guarantees, benefits, penalties, forgiveness, and referrals). The analysis starts with analysing the Schengen Policy which is the core of the visa application process to enter Germany. The next chapter “Policy on Tourism” is built on this visa process and deals with the regulations for short-term stays of up to 90 days. The following four chapters deal with the conditions for temporary residence titles for the purpose of economic activities and educational or family reasons. The analysis regarding Germany’s labour migration policy focuses on skilled migration. Since there is no dedicated immigration policy regulating citizenship solely on the grounds of investments made in Germany, the chapter “Investment-Based Migration Policy” regards the temporary residence permit for the purpose of self-employment. This type of temporary residence permit is part of Germany’s labour migration policy and is considered as gateway to citizenship via investment. The analysis of the German student mobility policy mainly considers study related Sections of the Residence Act, while stating information on other educational purposes only when needed. The last chapter of the report’s main part analyses Germany’s family reunification policy.

Schengen Policy

On the 14th of June 1985 five members of the European Economic Community – the Federal Republic of Germany, France, Belgium, Luxembourg and the Netherlands – signed the Schengen acquis (The Schengen Agreement between the governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders). It is considered the cornerstone of European integration,

paving the way for the free movement of people, goods, services, and capital within the EU. Since 1985, several other countries have joined the Schengen Area. Not only EU member states are part of the Schengen Area, but also four non-EU members, Iceland, Norway, Switzerland, and Liechtenstein. Thus, the scope of the agreement extends beyond the EU. Croatia is the newest member of the Schengen area, which joined on the 1st of January 2023. The policy facilitates tourism and business and allows cross-border workers and students to commute with ease (Auswärtiges Amt, 2023a).

The Convention Implementing the Schengen Agreement was signed on the 19th of June 1990. It entered into force on the 1st of September 1993 and became operational on the 26th of March 1995. It was this Convention that established the Schengen Area and commenced the creation of a single jurisdiction for immigration and asylum. It helped to determine in which member state an asylum application could be made. It also paved the way for close police and judicial cooperation, supported by the Schengen Information System, which provides data on persons and objects throughout the Schengen Area and was amended in 2013. It proposed a common visa policy. The Schengen countries agreed on a common list of third countries whose nationals require a visa and those who do not. There are several variations of the Schengen visa with different conditions and restrictions. The visa is applied in form of a sticker to the travel pass of the holder. In accordance with Regulation (EC) 810/2009, Category A allows transit through an airport in a Schengen country but not to stay in the country or even to leave the country. Category B, a land transit visa, has been covered by Category C visas since 2009. Category C is a short-term visa for staying in a Schengen member country with three subcategories. The first subcategory is the Single Entry Visa. It entitles the holder to enter the Schengen Area only once during a specific period and expires when the holder leaves. The second subcategory, the Double Entry Visa, allows the holder to enter and exit the Schengen Area twice and expires upon the second exit. The last subcategory is the Multiple Entry Visa. It allows the holder to enter and exit the Schengen Area multiple times for a maximum of 90 days in any 180-day period. Under certain circumstances, these subcategories also apply to Category A visas. The extension of a Schengen visa's validity and duration is permitted only for humanitarian or severe personal reasons or due to force majeure such as a serious illness or a natural disaster (Article 33 of Regulation No. 810/2009/EC). The 265/2010/EU Ordinance implemented national visas of member states as additional Schengen visas under Category D. The Category D visa allows a stay for work, study, and family purposes for over 90 days up to one year, based on national law. This only applies to the country which has granted the visa (Auswärtiges Amt, 2022; Regulation No. 810/2009/EC). After entering the country on a national visa, the TCN usually has to apply for a residence title. The fee for a national visa may not exceed 100 euros, the one for a temporary residence title may not exceed 140 euros (Section 69 (5) no.1 and no. 4 of the Residence Act). Even though the EU's policies aimed at free movement specifically target EU citizens, TCNs also benefit from this policy. In accordance with the common visa policy, TCNs may require a visa to visit a Schengen country, however, citizens of countries that signed bilateral agreements are exempt. While this may appear burdensome, TCNs are entitled to the same travel rights as EU citizens upon receiving such a visa, allowing them to travel to any Schengen country under comparable regulations. For instance, TCNs who are granted a short-stay visa by a Schengen country for tourist purposes can freely travel and stay in any Schengen country during the visa's validity. TCNs holding a national residence permit issued by a Schengen country are allowed to travel for up to 90 days within a 180-day period to any other Schengen country during the permit's validity. However, air passengers with transit visas are excluded and may only enter the international transit area at airports (Regulations No. 810/2009/EC and No. 265/2010/EU).

Similar to citizens of Schengen countries, these Schengen visa holders may cross the internal borders without identity checks. However, it is still necessary for all citizens of the Schengen countries and TCNs to carry a valid passport or ID when traveling since each country maintains the authority to perform checks at its internal borders. Failure to comply may result in a fine of up to 3000 euros for TCNs, according to Section 98, Subsection 5 of the Residence Act. External border checks adhere to a common Schengen standard. In addition to a valid passport, TCNs participating in EU mobility are required to bring either a copy of the notification from the host institution of the other EU state or proof of the business purpose in case their title was not issued by a Schengen state or the TCNs enter Germany via a non-Schengen state (Sections 18h (1) and 19a (1) of the Residence Act) (cf. “Labour Migration Policy”, “Investment-Based Immigration Policy”, “Student Mobility Policy”). According to Section 6 (2a) of the Residence Act, Schengen visa holders are not permitted to work, except for certain exemptions. Section 95 of the Residence Act states working while holding a Schengen visa is a criminal offence sanctioned by a fine or up to one year’s imprisonment. The same consequence applies to individuals staying in Germany without a residence title, which mandates their departure from the country. The German Residence Act, however, incorporates aspects of leniency (forgiving clause/article). As per Section 98, Subsection 1 of the Residence Act, an individual who negligently exceeds their Schengen visa expiry date is recognised as having committed an administrative offence instead of a criminal one. Legal precedents indicate mitigating circumstances, including the absence of a criminal record or only a short period of overstay in Germany, can result in reduced penalties (LG Landshut, verdict of 16.11.2009 – 2 Ns 35 Js 26732/08). It is also considered a criminal offence to hire an individual with a Schengen visa, as outlined in the “Investment-based immigration policy”.

With the Schengen Protocol to the Treaty of Amsterdam, which came into force on the 1st of May 1999, the Schengen cooperation, initially based only on an international agreement, was incorporated into EU law and therefore binding for all member states, except Ireland and at that time the United Kingdom which opted out. From March 2020 to June 2022, entry to Germany was restricted due to the COVID-19 pandemic, resulting in detrimental effects on tourism in Germany. After lifting the entry restriction on the 11th of June 2022, the Federal Foreign Office (Auswärtiges Amt) reports a rise in visa issuances, especially for Schengen visas. In 2022 alone, 872.308 visas were granted, compared to only 287.614 in 2021 (Auswärtiges Amt, 2023b).

Policy on Tourism

Tourism policy in Germany is subject to regulation under the Union’s joint visa policy in accordance with EU 2019/1155 of the European Parliament and of the Council dated the 20th of June 2019, as well as Regulation EC No 810/2009, together with an interdependent industrial ecosystem. Therefore, tourism policy is closely linked to the Schengen policy (cf. “Schengen Policy”).

Entry and residency conditions rely on the joint visa policy of the Schengen member states. Citizens from the Schengen Area and nations which have executed a visa waiver agreement with the Schengen member states are not required to apply for a visa. As a result, they are permitted to enter Germany without applying for a visa via their respective mission. They have the freedom to stay in Germany for a maximum of 90 days per 180-day period. According to the visa policy of the Schengen countries, citizens of 61 non-Schengen countries, two special administrative regions of China (Hong Kong and Macao), and one territorial authority that is not recognised as a state by at least one EU member state (Taiwan) are currently permitted to travel visa free due to visa waiver agreements (as for 2023) (Regulation No. 2018/1806/EU). For example, citizens of Japan, Hong Kong, Macao, and Taiwan are exempt from applying for a visa. However, the

visa waiver programme between Taiwan and the FRG is applicable only to those holding passports issued in Taiwan with an ID card number (Auswärtiges Amt, 2023c). Short visits or tourism require citizens of the People's Republic of China, the Philippines, Thailand, and Vietnam to apply for a visa at the relevant mission. Nonetheless, individuals from a country that has not signed a visa waiver agreement with the Schengen member states but who reside in the Schengen Area may qualify for exemption. This applies, for example, to individuals who possess a Schengen visa from another EU member state, provided that it is not geographically restricted, as well as to holders of EU members states' national visa, temporary residence permit or permanent residence permit. If a visa-required individual attempts entry into either the country or the Schengen Area, entry will be denied. Successfully entering Germany without a valid Schengen visa is considered a criminal offence under Section 95 of the Residence Act. Entering Germany without a valid visa or residence title may lead to a fine of up to 3000 euros or a maximum sentence of one year imprisonment. If the offence is committed negligently, it may be classified as an administrative offence and subject to a fine (Section 98 (1) of the Residence Act). Additionally, entry may be denied to citizens of countries that have signed visa waiver programmes as member countries have the right to refuse entry under certain conditions. TCNs who entered Germany without a visa due to a visa waiver programme or people holding a Schengen visa intending to remain in Germany for over 90 days for purposes such as work and study must apply for a temporary residence permit at the appropriate foreigners authority. Schengen visa holders are authorised free travel in all 27 countries within the Schengen Area throughout their visa's validity.

By 2025, citizens of visa-exempt countries will face changes to their entry requirements due to the European Travel Information and Authorisation System (ETIAS) implementation. ETIAS aims to enhance security in the Schengen Area in light of terrorist attacks and the European migration crisis. According to the official website (Directorate-General for Migration and Home Affairs, 2023a), "1.4 billion people from over 60 visa-exempt countries" will be required to apply for an ETIAS waiver in order to travel to Europe for tourism, business, medical treatment, or transit. Like the Schengen visa, the ETIAS authorisation permits a stay of up to 90 days within any 180-day period. The application for an electronic travel authorisation must be completed online prior to visiting the Schengen Area. It will be mandatory to possess a valid passport, a computer or mobile device with internet access, and a valid form of payment to apply for the waiver. The fee for an ETIAS application will be set at 7 euros. Travellers who are either under 18 or over 70 years old will be exempt from paying this fee (Directorate-General for Migration and Home Affairs, 2023b). According to the website (Directorate-General for Migration and Home Affairs, 2023a), processing applications will typically take only a few minutes. However, additional information or an interview may be required, in which case the applications might take longer. Applications should be prepared to provide any necessary information following the document review process. If entry is denied, applicants will be able to appeal to an EU embassy or consulate. An approved ETIAS authorisation will remain valid for three years or until the expiry of the travel document's validity, as registered at the time of application, whichever comes first (Directorate-General for Migration and Home Affairs, 2023a).

Labour Migration Policy

Access for TCNs to the German labour market is a cornerstone of the German immigration policy and, along family reunification, an important aspect of the Residence Act. As stated in Chapter 2 of this report, there is a clear separation between asylum and labour migration (cf. "Strict Separation between Labour Migration and Forced Migration"). The German government has identified a need for skilled migration due to demographic change. According

to the Federal Ministry of the Interior and the Community, Germany's and the EU's labour markets will not be able to meet Germany's demand for skilled labour from 2030 onwards, when the baby-boom generation retires. Therefore, Germany has opened its labour market to TCNs by adopting a draft law allowing the immigration of skilled workers, as seen in the implementation of the Skilled Immigration Act (Federal Ministry of the Interior and Community, 2023).

Chapter 2, Section 4a of the German Residence Act regulates the access of TCNs to the national labour market. Subsection 1 states that every TCN with a residence title may take up employment, provided that this is not prohibited by law. Prohibitions and restrictions, as well as cases in which the approval of the Federal Employment Agency is required, are, among others, specified in Chapter 2, Part 4 of the Residence Act, which deals with residence for the purpose of economic activity. Reasons for refusing the right to work are listed in Section 40 of the Residence Act. The temporary residence permit must state whether the right to work is granted or restricted. Work without a residence permit is allowed in the following cases: TCNs who do not have a residence permit are allowed to do seasonal work if they have a work permit. TCNs without a residence title may work if a bilateral agreement, a law or a regulation permits it, or if the competent authority allows it (Section 4a (4) of the Residence Act). Anyone employing TCNs is obliged to ensure that the TCNs have a residence permit or are otherwise allowed to work. The employer must make a copy of the residence permit and the work permit, and must notify the competent foreigners authority in case the employment is terminated prematurely (Section 4a (5) of the Residence Act). Violations are punishable with imprisonment or fines. Thus, the authorities hold not only TCNs, but also employers responsible, regardless of their nationality. Since TCNs can also act as employers, further information on penalties can be found in the following Chapter "Investment-Based Immigration Policy."

Chapter 2, Part 4 of the Residence Act outlines the rules for foreign employees and has a particular emphasis on skilled labour immigration. The first section of Part 4 lays out the overall guidelines for immigration related to economic activity. Given the demographic shift, it is believed that the arrival of skilled workers from third countries will "guarantee the supply of skilled workers and [...] strengthen the social security systems" (Section 18 of the Residence Act). The "opportunities" afforded to skilled foreign workers are "intended to promote the lasting integration of skilled workers into society and the labour market, with due consideration of public security interests" (Section 18 (1) of the Residence Act). The immigration of skilled foreign workers must be considered in light of the state of the labour market. With regard to the immigration of (highly) skilled workers, Germany's law on labour migration is believed to be characterised by openness. The aim is to appeal to professionals with urgently needed skills in Germany. As per the website of the Federal Government for skilled professionals overseas, "Make it in Germany", the presently required occupations are nursing professionals, physicians, engineers, IT experts, scientists, and craftspeople. Additionally, skilled professionals are needed in the "green" sector as well as the logistic sector. In accordance with Section 18, Subsection 3, nos. 1 and 2 of the Residence Act, the term "skilled worker" is defined as a "foreigner who 1. has successfully completed quality vocational training in Germany or has a foreign quality vocational qualification which is equivalent to one acquired in Germany (skilled worker with vocational training qualification), or 2. has a German university degree, a recognised foreign university degree or a foreign university degree comparable to a German one (skilled worker holding a university degree)." According to Section 18c, Subsection 3 nos. 1 and 2 of the Residence Act, the term "highly-skilled workers" specifically encompasses scientists possessing specialised

technical knowledge or teaching personnel, as well as scientific personnel in prominent positions, provided that they have several years of professional experience. This exclusive group of individuals is granted a permanent residence permit upon arrival (Section 18c (3) of the Residence Act). The fee for a permanent residence permit may not exceed 200 euros (Section 69 (5) no. 2 of the Residence Act). The Residence Act allocates distinct sections for the following groups: highly-skilled and skilled workers with vocational training qualifications or university degrees, researchers, EU Blue Card holders, intra-corporate transferees (ICTs), civil servants, qualified TCNs whose deportation has been suspended, participants in a European voluntary service scheme according to Directive 2016/801/EU, and self-employed individuals along with freelancers. The guidelines for obtaining a temporary residence permit for self-employment are analysed in the “Investment-Based Immigration Policy” chapter as this permit serves as a gateway to an investment-based immigration. While seasonal workers and unskilled labourers receive sparse consideration in selected sections of the Residence Act, Part 3 of the Ordinance on the Employment of Foreigners, however, encompasses temporary work and outlines provisions for the entry and residency of various occupations, including au pairs, domestic workers of posted persons, and seasonal workers. The guarantees, benefits, penalties, and temporalities concerning all of the above mentioned groups differ based on the grounds on which a temporary residence permit for employment is granted.

Guarantees, Actors, and Characteristics

Chapter 2, Section 5, Subsection 1 of the Residence Act states the basic requirements for migrating to Germany. In principal, they apply to all migration purposes if no law, ordinance, or agreement states otherwise. These requirements are secured subsistence, verification of the TCN’s identity, no public interest in expelling the applicant, and a valid passport or passport substitute. In addition, the TCN’s presence in the FRG must not pose any threat to the national security. Temporary residence permits for skilled workers vary between TCNs with vocational training qualifications (Section 18a of the Residence Act) and those with a university degree (Section 18b of the Residence Act). The latter group also has the chance to qualify for an EU Blue Card. In general, applicants must fulfill specific requirements to be granted a temporary residence permit for the purpose of economic activity. These include securing a concrete job offer and obtaining approval from the Federal Employment Agency, which may be subject to denial under certain circumstances. The applicants must obtain permission to practice their profession, and their qualification must meet equivalence standards. TCNs aged 45 or older who wish to work as skilled workers with vocational training or a university degree must demonstrate sufficient provisions for old age or a salary equivalent to at least 55% of the earnings ceiling of the general pension scheme (2023: 48,180 euros). Skilled workers with vocational training or university degree may be exempt from this requirement if their employment is in public interest, particularly from regional, economic, or labour market policy perspectives. Additionally, there is a minimum salary for TCNs applying for an EU Blue Card. TCNs are eligible for an EU Blue Card without need for approval from the Federal Employment Agency, provided that their salary corresponds to at least 50% of the earnings ceiling of the general pension scheme (2023: 43,800 euros) and if no other reason for refusal exists. In case of aspiring managers in certain fields and academic professionals with a degree less than three years old¹¹, the EU Blue Card can be granted with consent from the Federal Employment Agency, if their salary is at least 45.3% of the annual income limit of the general pension scheme (2023: 39,682 euros) (Section 18b (2) of the Residence Act). TCNs without a university degree who work in the IT and communication sector are also eligible for an EU Blue Card. In addition to the minimum salary requirement of at least 45.3% of the annual earnings ceiling, applicants must demonstrate their skills

through three years of work experience within the last seven years in line with the required skills (Section 18g (2) of the Residence Act). The Federal Ministry of the Interior and Community announces the minimum wages for the upcoming year in the Federal Gazette by the 31st December annually, as stated in Section 18 (2) and Section 18g (7) of the Residence Act. This data serves as parameter to calculate the needed provision for old age and salary. However, skilled employees outside of these groups do not have a prescribed minimum wage. In addition to the minimum salary requirement for obtaining an EU Blue Card, Section 18g Subsection 3 also mandates that the job offer must ensure a minimum of six months employment. Subsistence of a TCN is considered secured if the individual already possesses a temporary residence permit as a skilled worker with vocational training or university degree (Section 18g (5) of the Residence Act). In general, terms of employment, salary, and working hours must be equivalent to those of German nationals with comparable qualifications.

There are two other forms of mobility for EU Blue Card holders. In the case of a short-term mobility, EU Blue Card holders issued by another EU member state are allowed to stay in Germany for 90 days within a period of 180 days without further requirements, provided that their stay is related to work (Section 18h (1) of the Residence Act). The other form is long-term mobility. TCNs who have resided in another EU member state for at least 12 months on basis of an EU Blue Card are eligible to remain in Germany (Section 18i (1) of the Residence Act). The possibility of long-term mobility can be used several times and leads to a reduction of the time the TCN has to spend in the other member state (Section 18i (3) of the Residence Act).

The German Residence Act differentiates mainly on the length of stay for researchers and ICTs who hold temporary residence permits for economic activity. This results in different conditions for entry and stay. In accordance with Germany's labour migration guidelines and EU policies (Directive 2016/801/EU), obtaining a temporary residence permit for research purposes in the German Residence Act requires TCNs to have an effective hosting agreement or an equivalent contract for the implementation of a research project with a research organisation (Section 18d (1) no. 1 of the Residence Act). A special clause concerning researchers states that the host research organisation has to bear the costs incurred by public bodies for up to six months after termination of the hosting agreement. In case the TCN stayed in a member state of the EU unlawfully, they have to cover the cost for the TCN's subsistence and for the foreigner's deportation (Section 18d (1) of the Residence Act). The requirement to bear the cost can be waived when the activities of the research organisation are financed primarily from public funds or when there is special public interest in the research project. The TCN or the organisation can be asked by the authorities to furnish securities. Thus, return air tickets and other travel vouchers in the possession of the TCN can be confiscated to secure the departure of the TCN (Section 66 (5) of the Residence Act). Similarly to researchers, TCNs who are working for a non-EU company and getting transferred to a national entity of their company or of the company group and finally become qualified to receive an ICT card need to have a valid work contract as a manager or specialist in their respective field. The employment agreement must specify the location and nature of work, pay, and other relevant terms and conditions for the intra-corporate transfer. Additionally, proof of the TCN's return after the transfer is required. In both situations, employment verification functions as the TCN's basic guarantee. Nevertheless, unlike researchers, TCNs staying under an ICT card are subject to additional requirements. ICT card holders must provide proof of their professional qualification and have been employed by the transferring company for at least six months prior to the transfer. They must also have uninterrupted

employment during the transfer period which must be greater than 90 days in duration, as outlined in Section 19 (1) and (2) of the Residence Act. A TCN with a university degree who is undergoing a traineeship for career development and receiving payment during the transfer, and thus a trainee employee, may also obtain an ICT card. Trainee employees are exempt from providing proof of their professional qualification and an employment as a manager or specialist (Section 19 (3) of the Residence Act).

Both researchers and ICTs may engage in short-time mobility, with a maximum stay of 90 days within a 180-day period for ICTs and 180 days within a 360-day period for researchers. However, additional guarantees must be provided by the TCN or the employer. The German Federal Office for Migration and Refugees and the authorities of the other EU member state must be informed of the stay and the TCN must hold a residence permit from another member state in accordance with Directive 2016/801/EU and 2014/66/EU. If the TCNs possess a residence title issued by a non-Schengen state and if they enter Germany via a non-Schengen state, the TCNs must carry a copy of the notification and present it to the competent authorities at their request. Both short-term researchers and ICTs must also provide the Federal Office for Migration and Refugees with a valid hosting agreement or employment contract and a copy of the TCN's passport or passport substitute. Unlike ICTs, short-term researchers are required to provide German authorities with proof of secured subsistence, whereas short-term ICTs must submit additional evidence demonstrating that the national host entity belongs to the same corporation that they are employed by outside the EU and proof of permission to practise that has been granted or promised. For researchers and ICT professionals, a temporary residence permit of a distinct nature is available. If the TCN plans to stay in Germany for research purposes lasting more than 180 days but less than a year, they will be recognised as mobile researcher. Permission from the Federal Employment Agency is not necessary, if the TCN provides evidence of a qualification in accordance with Directive 2016/801/EU of another member state, a copy of their passport or passport substitute, and the hosting agreement or contract with the host organisation (Section 18f (1) of the Residence Act). A mobile ICT card in accordance with Directive 2014/66/EU, may be issued to TCNs if they work as managers, specialists, or trainees, if the intra-corporate transfer exceeds 90 days, and if the TCNs provide a work contract valid for the duration of the transfer, with specific information on the place and type of work, remuneration and other conditions of employment during the transfer. In order to guarantee the hosting country, evidence that the TCN will be able to return should also be provided. The TCN requires a residence permit valid for the duration of the application procedure, issued by another member state in accordance with Directive 2014/66/EU. The fee for a mobile ICT Card may not exceed 100 euros (Section 69 (5) no. 1c of the Residence Act).

TCNs who are entitled to free movement rights under an EU treaty with a third country will not be issued an ICT card if they are employed by a third country company and are following a training programme as part of their studies. For ICTs, entry and stay will be denied if the remuneration provided to the TCN during the intra-corporate transfer is less favourable than that granted to comparable German employees. The issuance will also be refused if the requirements are not met or the documents listed in the requirements have been fraudulently acquired, falsified, or tempered with, if the TCN has been in the EU for more than three years or, in the case of a trainee, for more than one year, or if there is an interest in expelling the foreigner (Section 19 (3) of the Residence Act). For mobile researchers, applications must be filed at least thirty days prior to the end of a short-term stay; otherwise, the application will be rejected. It is not possible to apply as both a short-term researcher and mobile researcher, or a short-term ICT and mobile ICT simultaneously, as stated in Section 18f (5)

of the Residence Act. Denials of issuance based on timing issues will be addressed in the “Temporalities” section. Following a refusal to enter and remain in Germany by the Federal Office for Migration and Refugees, the Foreigner’s Authority assumes the responsibility for short-term researchers and ICTs, as outlined in Section 18e (6) and Section 19a (5) of the Residence Act.

Upon being granted an ICT card, the holder must work either as a specialist or in a senior managing position, managing the host entity with the restriction of receiving only minimal general supervision or guidance from the boards of directors and shareholders of the business. In the same way, all types of residence permit for research purposes allow the holder to conduct research and to teach at the host organisation. Changes to the research project’s nature do not affect this permission (Section 18d (5) of the Residence Act). The research permit is also valid for TCNs who have resided in another EU member state for at least two years on the basis of international protection (Section 18d (6) of the Residence Act).

In addition to the EU Blue Card, the Skilled Immigration Act introduced a temporary residence permit for skilled workers seeking employment (Section 20 of the Residence Act). This permit allows TCNs to remain in Germany for 9 to 18 months depending on their qualification while searching for employment that matches their skills. As per this permit, TCNs can stay in Germany if they qualify for a job equivalent to their skills. Current legislation stipulates that not only individuals with university degrees but also TCNs with vocational training may obtain a temporary residence permit for the purpose of seeking employment. The duration of the permit is determined by whether the TCN has previously resided in Germany for skilled education or employment, or if they are entering Germany for the first time on ground of this residence permit. While residing on this temporary residence permit, TCNs are only allowed to engage in work trials. Work trials must not exceed 10 hours per week.

Since 2009, foreign nationals whose deportation has been suspended due to their qualifications are qualified to receive a temporary residence permit for employment that corresponds to their vocational training. Prior to the introduction of the Skilled Immigration Act in 2020, this was referred to as Section 18a, Subsection 1 of the Residence Act. After the implementation of the Skilled Immigration Act in 2020, this is now referred to as Section 19d, Subsection 1 of the Residence Act. The eligibility criteria stipulate that TCNs must have completed vocational training or higher education study in Germany, or worked in a specialist role for three consecutive years. Alternatively, they may have been employed in a university position with a comparable foreign higher education degree for a minimum of two years. They, along with their family and household members, must not have been dependent on public funds except for accommodation and heating purposes. Moreover, there is a language requirement and a requirement to have sufficient living space. The residence permit will not be granted if the TCNs have intentionally misled the foreigners authority on matters related to their residence status, intentionally impeded official measures to end their stay, have affiliations with extremist or terrorist organisations or provide support to such groups, and have been convicted of an offence committed intentionally in the FRG.

Section 19e of the Residence Act outlines the regulation regarding individuals participating in European voluntary service. Participating in a European voluntary service in accordance with Directive 2016/801/EU can lead to a temporary residence permit for work purposes. Approval by the Federal Employment Agency is required for the applicant, or the stay of the TCN is determined on the basis of the Ordinance on the Employment of Foreigners or by

intergovernmental agreement. Regardless, the TCN must submit an agreement with the host entity stating a description of the voluntary service programme, the duration, the TCN's hours of service, the placement, the conditions of supervision, the funds available to cover the foreigner's subsistence and accommodation costs, the minimum amount of pocket money the TCN will have during the stay and, if applicable, the training the TCN will receive in order to carry out the voluntary service properly (Section 19e (1) of the Residence Act). Foreign civil servants are granted a temporary residence permit to carry out their official duties in the FRG without seeking consent from the Federal Employment Agency, as per Section 19c of the Residence Act.

While the focus of Part 4 is on skilled workers, one section – Section 19c subsection 1 of the Residence Act – refers to low-skilled or unskilled workers. If TCNs are not qualified as skilled workers, they can be granted a temporary residence permit if the Ordinance on the Employment of Foreigners or a bilateral agreement allows it (Section 19c (1) of the Residence Act). The Employment Ordinance provides further information on seasonal work. On the basis of a bilateral agreement between the German Federal Employment Agency and the public employment services of the TCN's country of origin and in accordance with Directive 2014/36/EU of the European Parliament and of the Council of the 26th of February 2014, entry and residence for the purpose of employment as seasonal workers may be granted to TCNs. According to Section 15a subsection 2 of the Ordinance on the Employment of Foreigners, approval by the Federal Employment Agency requires proof of sufficient health insurance coverage, access to adequate accommodation, a concrete job offer or a valid employment contract stating the place and nature of work, the duration of the employment and the weekly and monthly working hours, the remuneration, the amount of paid holidays, and, if possible, the date on which the employment is to begin. As a guarantee for the seasonal worker, the second sentence of subsection 2 of the Ordinance states that the rent must be reasonable if the employer provides the accommodation. However, the employer's guarantee is, that the rent can be deducted from the wage. The conditions must be laid out in a rental contract and the Federal Employment Agency must be informed of any changes to the accommodation. The work permit issued by the Federal Employment Agency can be denied if the TCN is already in the FRG, if the TCN applies for international protection in accordance with Directive 2011/95/EU, if the TCN has not fulfilled obligations arising from previous decisions on the admission to seasonal employment, or if there are any problems with the business, such as insolvency (Section 15a (3) of the Ordinance on the Employment of Foreigners). In addition to seasonal workers, au pairs are also covered by the term "Temporary employment" in a specific section of the Ordinance. Prospective au pairs obtain a work permit from the Federal Employment Agency if they have basic knowledge of German, are under 27 years of age, and will be working as an au pair for up to one year in a family where German is the mother tongue. If German is not the mother tongue, but is used as the family language, the Federal Employment Agency may grant permission if the au pair is not from the host parents' home country (Section 12 of the Ordinance on the Employment of Foreigners). Section 19c, Subsections 2 and 3 provide two options for the employment of TCNs who do not fall into one of the categories mentioned in this chapter. Firstly, the employment of TCNs is possible for reasons of public interest, in particular if there is a regional, economic or labour market interest in the employment of TCN's. Secondly, a high level of practical occupational skills without further qualification can lead to a temporary residence permit for the purpose of economic activity, if the Ordinance allows it.

Temporalities

There are various temporalities that are reinforced and produced in German labour migration policy. The visa application process can take up to several months. In addition, there may be a waiting period, for example during peak travel seasons. Processing and waiting time may also vary depending on the mission responsible. However, TCNs who are already in Germany on the grounds of a visa waiver, cannot start working until their application for a residence permit has been approved. If they want to start working immediately after entering Germany, they must first apply for a work permit at an embassy. An exception is the accelerated procedure for skilled workers under Section 31a of the Ordinance Governing Residence. In the case of skilled workers, the competent mission offers an appointment for the issuance of a visa within three weeks, after the mission has received the pre-approval of the Central Register of Foreign Nationals and after the TCN has requested an appointment. The decision is then taken within a further three weeks.

Depending on the type of residence title, the Residence Act sets different time limits within which applicants are entitled to receive a decision on their application. If the residence title requires the approval of the Federal Employment Agency, the prospective employer must provide information on wages, working hours and other conditions of the employment within one month of a request from the Federal Employment Agency, according to Section 39, Subsection 4 of the Residence Act. The Agency evaluates whether skilled TCNs are working under less favourable conditions than Germans in a comparable position, whether the work of the TCNs is in line with their qualifications, whether there is a national employment relationship, and whether other requirements of the Ordinance on the Employment of Foreigners are met. In order to speed up the process, no labour market test is usually carried out in the case of skilled workers. For TCNs, who do not qualify as skilled workers, it is also checked whether they work under comparable conditions to German nationals and whether the requirements for the purpose of their stay are fulfilled. Unlike skilled workers, these workers are not exempted from a labour market test. The test assesses whether German nationals or TCNs residing under preferential conditions⁵ should be given preference in filling the vacancy. In the case of seasonal work, the approval of the Federal Employment Agency is regarded to have been granted until a decision has been made. TCNs who have been employed as seasonal workers in Germany at least once in the last five years are given preferential treatment with regard to the number of work permits and approvals (Section 15a (1) of the Ordinance on the Employment of Foreigners).

The Residence Act also sets certain time limits for the rejection or approval of an application with regard to researchers and ICTs. As long as the decision is pending, applicants for a temporary residence permit as a mobile researcher are allowed to stay and work in Germany for up to 180 days within a period of 360 days if the application was submitted at least 30 days before the start of the stay and if the residence title of the other EU member state is still valid (Section 18f (2) of the Residence Act). Similarly, applicants for a mobile ICT card may stay and work in Germany for up to 90 days within a period of 180 days if the application was submitted 20 days prior to the start of the stay and if the residence title of the other EU member state is still valid (Section 19b (3) of the Residence Act). In the case of regular researchers, the Residence Act states that their residence title is to be issued within 60 days after application (Section 18d (1) of the Residence Act).

In applications for the purpose of short-term mobility of researchers and ICTs, the host research organisation or the host undertaking of the other EU country must notify the Federal Office for Migration and Refugees and the competent authority of the other EU member state that the TCN intends to carry out part of the research or work in Germany. The notification must be sent simultaneously with the TCN's application according to Directive 2016/801/EU or pursuant to

Directive 2014/66/EU. If the host organisation or, in the case of ICTs, the undertaking is unaware of the TCN's intention, they must inform the authorities as soon as they become aware (Section 18e (1) and 19a (1) of the Residence Act). If the notification is given on time and the TCN's entry and residency are not denied, they are allowed to enter Germany within the validity period of their residence permit. If short-term ICTs are not denied entry and stay within 20 days of receiving the notification, the Federal Office for Migration and Refugees must issue them a certificate that allows them to enter and stay in Germany for short-term mobility relating to their intra-corporate transfer, as stated in Section 19a, Subsection 4 of the Residence Act.

The acceptance of an application for a mobile ICT card or as a mobile researcher may be denied if it is submitted at the same time as an application for a short-term ICT or short-term researcher residence permit. The request may also be declined, if it was filed during the stay as a short-term researcher or short-term ICT, but was not completed 30 days or 20 days prior to the end of the stay, respectively (Section 18f (5) and 19b (4) of the Residence Act). Furthermore, the mobile ICT card will not be issued if the transfer of the TCN to Germany takes longer than to other EU member states and the maximum duration of stay as ICT has been reached (Section 19b (5) and (6) of the Residence Act).

For short-term ICTs, entry and residence are refused if their stay in the EU exceeds three years or if they have been trainees in the EU for more than one year. If non-EU nationals have applied for short-term mobility as ICTs and are not receiving the same remuneration as German employees, are reaching the maximum time limit for their stay in the EU, failed to submit required documents, or submitted fraudulently acquired, falsified, or tampered documents, entry and residence can only be denied up to 20 days after notification to the Federal Office for Migration and Refugees. If there is a specific public interest in expelling the TCN, entry and residence may be denied at any time. In the event of such a denial, all involved parties, including TCNs, the competent authority of the other EU member state, and the host organisation, should be notified (Section 19a (3) of the Residence Act). If any of the reasons for denial listed previously are applicable, the Foreigner Authority is responsible for taking further measures and making decisions. TCNs must promptly inform the Authority whether the other EU member state's residence title has been extended, according to Section 19a (5) of the Residence Act. If denied, individuals seeking short-term mobility for research and economic activities in their capacity as researchers and ICTs must discontinue their activities without delay. The exemption from requiring a residence title terminates as per Section 18e (4) and 19a (3) of the Residence Act.

Additionally, the host organisation in the country is required to promptly inform the relevant foreigners authority of any changes to the mobile ICT card requirements, including alterations to the duration of stay or employment type, within a week at the latest (Section 19b (7) of the Residence Act).

Assuming the desired residency title has been granted, skilled workers with vocational training qualification (Section 18a of the Residence Act) and skilled workers with a university degree (Section 18b of the Residence Act) are granted a residence status for a period of four years or for a shorter period if the employment contract or the approval of the Federal Employment Agency is limited to a shorter period. If the skilled worker possesses an EU Blue Card, it shall be issued or extended to be valid for the duration of the employment contract, with an additional three-month period if the contract is for less than four years. If the EU Blue Card holders remain employed when their temporary permit expires, their residence permit will be renewed. In case of researchers, the residence permit is issued for at least one year. If the researcher participates in a multilateral programme or a programme of the Union,

the residence permit is issued for two years. If the research activity is going to take up a shorter period of time, the residence permit is issued for the duration of the research project, however, in case of a multilateral programme or a programme of the Union for at least one year (Section 18d (4) of the Residence Act). Holders of an ICT card working as managers or specialists can stay in the FRG for the duration of their stay, for a maximum of three years. Trainees are also eligible to stay, but only up to a maximum duration of one year (Section 19 (4) of the Residence Act). It is important to note that in cases where the ICT card has been extended, the maximum duration is not to be exceeded (Section 19 (4) of the Residence Act). For participants of the European voluntary service, a residence title is granted for the duration agreed upon by the individual and the European voluntary service programme; however, this residency is limited to a maximum of one year. For civil servants, a temporary residence permit is granted for three years, unless their employment is limited to a shorter duration. According to Section 15a (1) of the Ordinance on the Employment of Foreigners, the seasonal employment of TCNs may not exceed six months in any year and the duration of the seasonal employment may not exceed the period of validity of the travel document.

Skilled non-EU worker can come to Germany for six months on a job-seeker's visa to look for suitable employment. If they secure a job within the designated period, they may remain in Germany and apply for the requisite work permit or EU Blue Card. As per the current regulations, international university graduates in Germany have 18 months to look for a job after graduation (compared to 12 months under the previous law), during which time they can work without restrictions. After working in a job commensurate with their education for a period of two years, individuals will be granted permanent residency in Germany. Foreign nationals who have completed an apprenticeship or other occupational training in Germany successfully are entitled to a year to seek work in line with their training. This year also allows them to work freely to support themselves. Additionally, TCNs whose professional qualifications have been recognised in Germany can remain for up to twelve months to find employment. The temporary residence permit for job searching is granted for a duration of nine months to (mobile) researchers who have completed their research activities in Germany (Section 20 (3) of the Residence Act).

Skilled workers who have received vocational training or a university degree, researchers, and EU Blue Card holders can obtain a permanent settlement permit after four years of residence in Germany. During this time, they must have worked consistently in their field and made compulsory or voluntary contributions to the statutory pension insurance scheme. Furthermore, they must have a sufficient command of the German language (B1 of the Common European Framework of Reference for Languages) (Section 18c (1) of the Residence Act). The four-year period can be reduced to two years and the period of compulsory or voluntary contributions to 24 months if the TCN has successfully completed vocational training or a course of study in Germany. Residence permits may be granted to EU Blue Card holders who have contributed for at least 33 months during their employment. They only need basic knowledge of the German language (A1 of the Common European Framework of Reference for Languages). If they furnish evidence for a sufficient command of the German language, the period is reduced to 21 months (Section 18c (2) of the Residence Act). Highly-skilled professionals, including scientists with technical expertise, as well as teachers and scientific personnel in prominent positions, are eligible for a permanent settlement permit, without requiring approval from the Federal Employment Agency. However, the supreme state authority may be involved by approving the granting of the permanent settlement permit. In order to be granted the permit, it must be demonstrated that the TCNs can integrate into

German society effectively and support themselves without state assistance, as stipulated in Section 18c (3) of the Residence Act.

Benefits, Penalties, Forgiveness

Skilled workers may benefit from easier labour market access, accelerated approval, quicker obtaining of permanent residence permits, and easier family reunification, under certain conditions. Those who possess vocational training qualifications, a university degree, or a temporary residence permit for research purposes related to the required job position are eligible to apply for a permanent residence permit after four years, which is notably one year less than the standard duration of five years. Applicants must prove that they have sufficient knowledge of the German language and meet the financial requirements of the statutory pension insurance scheme for at least 48 months, or prove entitlement to comparable benefits from an insurance or pension scheme or an insurance company. The EU Blue Card bestows benefits upon migrant employees and their dependants. As previously mentioned, they may attain the permanent settlement permit ahead of the standard five-year period. They already meet the criteria for a permanent settlement permit after 33 months. Those who demonstrate sufficient German language skills are even entitled to receive it after only 21 months. In contrast to general regulations, EU Blue Card holders require solely the permission of the foreigners authority to change jobs within the first two years of employment. In the event of a desire to switch positions, permission from the foreigners authority is granted, if the new employment meets EU Blue Card requirements. The most expedient route to obtaining a permanent settlement permit is granted to highly-skilled professionals who can obtain it upon arrival. In addition, foreign professionals with a residence title for employment purposes enjoy the added benefit of being permitted to bring their spouses from abroad if they intend to stay for more than one year. However, the spouse must demonstrate sufficient language skills. As a rule, exceptions are granted for spouses who hold a university degree, spouses of highly-skilled workers, spouses of EU Blue Card holders, and spouses of nationals of certain countries, such as the USA, Canada, Australia, and Japan. Persons who marry after entering Germany may only be reunited with their spouses after they have lived in Germany for at least two years. Exception apply to highly-skilled employees and EU Blue Card holders.

False information supplied during the application of a residence title is considered a criminal offence and may result in a penalty of imprisonment for up to three years, or a fine (Section 95 (2) no. 2 of the Residence Act). Non-deliberate incidents of this nature may be treated as an administrative offence and only result in a financial penalty. Entering Germany without a valid visa or residence title is punishable by a fine of up to 3000 euros or a maximum of one year's imprisonment (Section 95 (1) no. 1 of the Residence Act). If the offence is committed negligently, it may be classified as an administrative offence and may only be subject to a fine (Section 98 (1) of the Residence Act).

TCNs who engage in work without a valid permit or work while residing on a Schengen visa will be subject to an administrative offence, resulting in a fine of up to 5000 euros (Section 404 (2) no. 4 of the Social Code III). The same applies to TCNs who pursue self-employment without authorisation (Section 98 (3) no. 1 of the Residence Act). Further information on penalties regarding self-employment is available in the following Chapter "Investment-Based Immigration Policy". While residing on a job-seeking residence permit, exceeding the permitted work trials of 10 hours per week is an administrative offence. This offence is also punishable with a fine of up to 5000 euros (Section 404 (2) no. 4 of Social Code III). Additionally, as per the Residence Act, the residence permit of TCNs, whose deportation has

been suspended, and who have been given authorisation to work, may be revoked, if they have been dismissed from their job due to their own fault (Section 19d (1b) of the Residence Act).

Investment-Based Immigration Policy

There is no official golden visa programme or direct citizenship by investment in Germany, in contrast to countries like Portugal. Nevertheless, temporary residence permits for self-employment are attainable under Section 21 of the German Residence Act. This provision enables TCNs who intend to establish a business in Germany or create an overseas branch of an already existing company to obtain a residence permit. Section 21 of the Residence Act is an integral aspect of Germany's labour migration policy.

Guarantees, Actors, and Characteristics

Non-German and non-EU citizens may establish a business and become self-employed in Germany. However, nationals of non-visa free countries must first apply for a national visa at the appropriate German mission to enter the country. This is a mandatory requirement, as a temporary residence permit can only be applied for locally. Nationals from countries exempt from visas are permitted entry into Germany without the requirement of a visa and can directly apply for a temporary residence permit for the sole purpose of self-employment at the German foreigners authority. Additionally, relevant parties, such as the relevant authorities for the planned business location, the competent trade and industry authorities, the representative bodies for public-sector professions and the authorities responsible for regulating access to the profession in question, are also involved. The visa fee is 75 euros (Section 46 no. 1 of the Ordinance Governing Residence). The application handling can reach up to 100 euros (Section 45 of the Ordinance Governing Residence). Individuals who are over 18 years old and have a clean criminal record can apply for a residence permit for self-employment purposes under Section 21 of the German Residence Act. Applicants over the age of 45 must demonstrate adequate provision for their old age in accordance with Section 21, Subsection 3. There is no language requirement, although sufficient health insurance coverage is necessary prior to entering Germany. To be eligible for a residence permit for self-employment in the German economy, the following requirements must be met: 1) there must be an economic interest in or a regional need for the company in question; 2) the business must be expected to have a positive effect on the economy; and 3) the foreigner must have personal capital or a loan company to realise the business idea (Section 21 (1) of the Residence Act). The current law differs from the initial Residence Act of 2005 in that it specifies no requirements for minimum investments or job creation. The Residence Act of 2005, on the other hand, mandates fulfilling requirements 1) and 2) of Section 21, Subsection 1 by investing at least one million euro and establishing ten jobs. In accordance with the Council Directive of 25th of May 2009/50/EG on the Conditions of Entry and Residence of Third-Country Nationals for the Purpose of Highly Qualified Employment (Hochqualifiziertenrichtlinie) of 2012, the aforementioned requirements have been waived during the amendment of the Residence Act. The examining bodies are involved in assessing application. The Chamber of Commerce and Industry provides professional evaluations to the foreigners authority on whether the above mentioned conditions for commercial self-employment of TCNs are met. In this context, the relevant authorities assess whether the applicants satisfy the passport requirements (Section 3 of the Residence Act), whether there exists a public interest in the removal of TCNs (Section 5 (1) 1 of the Residence Act), and whether the TCNs possess a business experience in the relevant field of activity (Section 21 (1) of the Residence Act). It must be assessed, whether the TCNs will be able to provide for themselves and their dependants through the proposed activity, (Section 21 (4) of the Residence Act), whether any residential restrictions exist that would need to be modified (Sections

12a and 61), and whether the relevant authorities view the TCN's business proposition as viable and economically feasible. While language proficiency is not explicitly stated as a requirement for self-employment in Section 21 of the Residence Act (self-employment) or in Section 5 of the Residence Act (general prerequisites), the Chamber of Commerce does take it into consideration when assessing applicants. For evaluation purposes, applicants may be required to provide specific documentation if deemed necessary. These documents comprise a deed of association (Gesellschaftsvertrag), an excerpt from the commercial register (Handelsregisterauszug), the applicant's business registration (Gewerbeanzeige) with the Trade Office (Gewerbeamt) and a comprehensive business plan. In addition, it is possible to provide evidence of available capital, a Curriculum Vitae, a managing director's employment contract (Geschäftsführer-Anstellungsvertrag), proof of already existing business relationships in Germany and Europe, and finally, a valid rental agreement, if one is already in place (IHK Region Stuttgart, 2018).

Pursuant to Section 21, Subsection 5 of the Residence Act, freelancers are not required to meet the conditions stated in Subsection 1. However, they must involve the above mentioned authorities. Additionally, TCNs holding a residence permit on grounds other than self-employment may engage in self-employed activities provided they obtained permission from the competent authorities and are not subject to mandatory conditions. Individuals residing in Germany under exceptional leave to remain (Duldung) are excluded. Holders of a permanent residence permit are entitled to engage in self-employed activities, irrespective of Section 21 of the Residence Act. They do not require separate authorisation (IHK Region Stuttgart, 2018).

Temporalities

As stated in the previous chapter on labour migration policy, the length of the visa application process can vary from a few days to several months, depending on the mission responsible. TCNs currently in Germany under visa waiver terms may commence employment only upon approval of their residence permit application. If they wish to start working immediately after entering Germany, they must first apply for a work permit at an embassy. The temporary residence permit for self-employment is valid for a maximum of three years. Self-employed individuals may obtain permanent residency after three years. It deviates Section 9, Subsection 2, which requires a lawful residency of five years in Germany for permanent resident status. The TCNs must have successfully carried out the planned activity and have sufficient income to support themselves and their families (Section 21 (4) of the Residence Act). Additionally, there must be no public safety concerns (as specified in Section 9 (2) sentence 1 no. 4 of the Residence Act). The cost of obtaining a permanent residence permit for self-employed individuals under Section 44 no. 2 of the Ordinance Governing Residence is 124 euros, as opposed to 150 euros in 2004. It takes an additional three to five years to qualify for German citizenship. If the TCNs are very integrated into German society and demonstrate proficient command of the German language, they may be eligible to apply for citizenship after six years of continuous residence, instead of the current requirement of eight years.

Benefits, Penalties, and Forgiveness

One advantage of the temporary residence permit for the purpose of self-employment is the accelerated opportunity to acquire a permanent residency and citizenship. TCNs holding a temporary residence permit for the purpose of self-employment can obtain permanent residence in Germany after three years instead of five. In addition, naturalisation can be granted after a mere six years of uninterrupted residence in Germany, as opposed to eight years. If highly integrated TCNs are perceived as such, they may have expedited access to naturalisation. Moreover, Section 21, Subsection 2a confers privileges upon researchers and scientists, exempting them from the requirements stated in Subsection 1 of this chapter (see "Guarantees, actors, and characteristics"),

if their self-employment is linked to the skills acquired during the higher education studies or the research activities.

If non-EU citizens remain in Germany while engaging in self-employment without authorisation, they commit an administrative offence that carries a fine of up to 5000 euros (Section 98 (3) no. 1 and (5) of the Residence Act). Those with only Schengen visas are subjected to a punishable offence with a sentence of up to one year in prison or a fine. Furthermore, TCNs who are self-employed and therefore business persons are required to check that their employees have obtained the relevant residence permit. Employing someone without a proper residence title may result in penalties of up to 500,000 euros, regardless of the employer's nationality (Section 98 (5) of the Residence Act). If this offence is committed repeatedly, it becomes a criminal act, punishable by imprisonment for up to three years or a fine (Section 11 (1) no. 2 and (2) of the Act to Combat Undeclared Work and Unlawful Employment). It is also considered a criminal act, if it is committed once and more than five foreigners are employed illegally (Section 11 (1) no. 1 of the Act to Combat Undeclared Work and Unlawful Employment). Imprisonment of up to five years can be imposed if significantly worse working conditions than normal are enforced (Section 10 (1) and (2) of the Act to Combat Undeclared Work and Unlawful Employment). Employing a person who is under 18 and does not meet the residence title requirement can result in a fine or imprisonment for up to one year (Section 11 (1) no. 3 of the Act to Combat Undeclared Work and Unlawful Employment). In cases of significant self-interest, the imprisonment penalty can be extended to up to three years (Section 11 (2) of the Act to Combat Undeclared Work and Unlawful Employment). Further, foreign or domestic business persons who collaborate with a business person or company employing workers illegally may also be penalised. The penalty for such an offence amounts to a fine of 500,000 euros (Section 404 (1) no. 1 and (3) of Social Code III). Every fine imposed in final judgment that exceeds 200 euros is recorded in the central commercial register (Section 149 (2) no. 3 of the Trade, Commerce, and Industry Regulation Act).

Student Mobility Policy

Another important aspect of Germany's migration policy, and hence of the Residence Act, is migrating for educational reasons. Especially in the face of shortages of skilled workers. Germany aims to employ foreign graduates of German higher education institutions to keep them in the country and fill vacancies for skilled personnel. Besides the need for skilled labour, Section 16 "Principles underlying residence for educational purposes" highlights the importance of promoting of general education, fostering international understanding, and advancing Germany's relationships in the global scientific community. It should be noted that the immigration for educational purposes is organised with consideration to public security interests. This analysis primarily pertains to student mobility, and therefore the regulations outlined in Sections 16b, 16c, 16e, and 17 of the Residence Act are the main focus. Subsections 1 to 4 and 6 of Section 16b are designed to execute Directive 2016/801/EU of the European Parliament and of the Council of the 11th of May 2016 on the Conditions of Entry and Residence of Third-Country Nationals for the Purposes of Research, Studies, Training, Voluntary Service, Pupil Exchange Schemes or Educational Projects and Au Pairing (OJ 132 of 21.5.2016, p. 21). The remaining provisions in the Residence Act pertaining to educational objectives focus on vocational training (Section 16a), recognition of foreign professional qualifications (Section 16d), as well as language courses and school attendance (Section 16f).

Guarantees, Actors, and Characteristics

International students will be granted a temporary residence permit to pursue full-time or part-time studies at a state, state-recognised or similar educational institution (Section 16b (1) of the Residence Act). Specific regulations for doctoral candidates are not outlined in the Residence Act, and the type of residence permit granted will depend on the means by which the applicant plans to support themselves while in Germany. If an individual enters into an employment contract or is admitted into a research establishment, they may be eligible to apply for a residence title for the purpose of employment or research, as well as an EU Blue Card. If they have a half-time position or less or are scholarship holders, they may apply for a residence title for study purposes. The temporary residence permit for study purposes covers preparatory company traineeships and measures to prepare for studies, such as attending a language course or a preparatory course (Section 16b (5) of the Residence Act). An admission is a prerequisite for attending these courses on a residence permit for study purposes. Proof of language proficiency is necessary only if it has not been assessed beforehand or if it is not intended to be gained during the duration of the course. The language requirement for a specific course of study, as per Section 16b (1) of the Residence Act, does not restrictively refer to German. The Federal Foreign Office specifies that proof of German language proficiency is required if the studies are conducted entirely in German. The DAAD (German Academic Exchange Service) allows exceptions for international degree programmes and certain postgraduate programmes if they are taught in English. However, non-native English speakers must provide evidence of English proficiency (Federal Office for Migration and Refugees, 2020).

Individuals who have received international protection in an EU member state are also eligible for a temporary residence permit for study purposes in Germany. However, specific criteria must be met to satisfy the requirements. Candidates must have undertaken studies in an EU member state for a minimum of two years and need to meet two obligations related to student mobility within the EU. The mobility must be part of a Union or multilateral programme or an agreement between two or more higher educational institutions. Evidence must also exist demonstrating that the TCNs have been accepted by the educational institution hosting them. After five years, the TCNs are not entitled to a permanent residence permit (Sections 16b (7), 16c (1) of the Residence Act).

Similar to the mobility of researchers and ICTs within the EU, international students possessing a residence title in another EU member state are not required to have a residence title in Germany, provided they stay for a duration of less than 360 days and the relevant educational institution in the FRG notifies the Federal Office for Migration and Refugees as well as the competent authority of the other member state. In addition to the above mentioned requirements, TCNs must furnish a verified and current passport or passport substitute, proof of financial sustainability, and a residence title from any other EU member nation as per Directive 2016/801/EU, valid for the entire duration of the intended visit. In addition to researcher and ICT mobility, there are regulations concerning notification of the authorities, entry time, and entry denial. Pursuant to Directive 2016/801/EU, the host educational institution is obliged to advise the Federal Office for Migration and Refugees when TCNs submit their residency title applications. If the notification has been submitted in due time and the TCNs are authorised to enter the country, they may enter at any time during the period of validity of the resident title issued by another member state. It is guaranteed that a TCN will receive a certificate from the Federal Office for Migration and Refugees confirming their entitlement to enter and remain in the FRG, if the entry and stay was not denied within 30 days (Section 16c (1), (2), and (4) of the Residence Act). Regarding a temporary residence permit as a student, TCNs are permitted to engage in jobs or employment during their stay. The residency free-frame allows for employment, but it must not exceed one-third of the

period (Section 16c (1), (5) of the Residence Act). Subsection 5 of Section 19f establishes that failure to submit the necessary documents, presenting fraudulently obtained, falsified or tampered documents, or posing danger to public interest may result in the denial of entry and stay for TCNs. Entry and residence for mobile students (Section 16c) and for regular study purposes (Section 16b) is prohibited when the host entity was established primarily to facilitate entry and residence of TCNs, insolvency proceedings have been initiated against the host entity's assets with the objective of winding up the business, and its activities. If the company's business has been dissolved, if the company is not engaged in any economic activity, or if there is evidence that the TCNs would reside for reasons other than those stated in the application (Section 19f (4) of the Residence Act). If the international student is denied entry and residence due to not meeting the requirements, falsifying documents, or if there is public interest in their expulsion, they must immediately cease their studies. Subsequently, the foreigners authority will assume responsibility for the TCNs (Section 16c (3) and (5) of the Residence Act).

Besides student mobility within the EU, study-related training programmes are also considered. TCNs who plan to remain in Germany to acquire knowledge, practice, and experience in a professional setting while pursuing their studies under Directive 2016/801/EU must be approved by the Federal Employment Agency, unless the Ordinance on the Employment of Foreigners or an intergovernmental agreement permits their stay. The training agreement presented by the TCNs must include provisions for both theoretical and practical training with a host entity. This agreement must provide detailed information regarding the educational objectives or learning components of the training programme, its duration, the conditions under which the foreigner will work and be supervised, the working hours, and the legal relationship between the TCN and the host entity. Moreover, it is a requirement for TCNs to provide evidence of having acquired a higher education degree within the two years prior to the application date or currently pursuing a course that leads to earning a higher education degree. It is also essential that the training they undergo is equivalent to the TCNs higher education degree or studies, as stipulated in Section 16e (1), Sentence 1 of the Residence Act. Section 16e (1), sentence 1 no. 5 serves as a guarantee for Germany, requiring the host entity to cover expenses incurred by public bodies for up to six months following the termination of the training agreement. Such expenses include the subsistence of TCNs during an unlawful stay in the FRG and the costs of their deportation. The residence titles which relate to EU student mobility (Sections 16c and 16e) align with the Schengen policy.

Section 17 of the Residence Act acknowledges the possibility of seeking a vocational training course or a place in higher education. As per regulations, TCNs are eligible for a temporary residence permit for the purpose of applying for a course of study, subject to their fulfillment of requisite educational and linguistic requirements for enrolling in a course of study prior to or during their stay. It is pertinent to note that such TCNs cannot engage in economic activity or undertake a student job whilst on their visit. The temporary residence permit for seeking admission to higher education can only be transformed into a residence permit meant for vocational training (Section 16a), studies (Section 16b) or for skilled workers with vocational training qualifications (Section 18a) or with a university degree (Section 18b) (Section 17 (3) of the Residence Act).

To receive a temporary study visa, candidates must demonstrate adequate financial support, as outlined in Section 5 of the Residence Act. This proof may be established by disclosing parental income and financial status, obtaining a sworn declaration from an individual with sufficient revenue or assets in accordance with Articles 66-68 of the Residence Act, making payments into a blocked account in Germany, or by depositing an annually renewable bank guarantee at a bank in Germany. It is sufficient to provide proof of a scholarship for the duration of one's stay.

Generally, there are no tuition fees in Germany. Unlike students from Germany, TCNs are required to pay tuition fees of 1500 euros per semester in Baden-Württemberg (Sections 3 (1), 4 (1) of the *Landeshochschulgebührengesetz*). However, higher educational institutions in Saxony may opt to charge tuition fees as well (Section 13 (3) of the Saxony Higher Education Act). Like German nationals, international students cannot enroll at German higher education institutions without adequate health insurance coverage. This can be a statutory health insurance fund if they are under the age of 30, or a private health insurance, if they are over the age of 30. Furthermore, in order to be granted a temporary residence permit for the purpose of studying, TCNs must meet the language requirements for the course in question and hold a degree or school-leaving certificate that gives them access to German higher education institutes. The recognition of such qualifications in Germany is contingent on the TCN's country of origin. TCNs who are not considered eligible can access German higher education institutes by taking a test called "Feststellungsprüfung" to demonstrate equivalence of their qualifications (*Verordnung über die Feststellungsprüfung zur Aufnahme eines Hochschulstudiums [Feststellungsprüfungsordnung Hochschule – PO-FeP-Hochschule]*). As a guarantee for international students, Section 16b, Subsection 6 of the Residence Act provides that TCNs may apply for admission to another institution up to nine months before a temporary residence permit for study-related purposes is withdrawn, revoked or has its period of validity reduced, provided that the TCNs were not responsible for the measures.

Temporalities

The residence permit for students is granted by the foreigners authority and remains valid for at least one year from the initial date of issuance and for each subsequent extension. The maximum validity period is typically two years, but this does not apply if students partake in Union or multilateral programmes including mobility measures, or if they are covered within an agreement between two or more higher educational institutions. If the course of study is less than two years, the temporary residence permit is only granted for the duration of the course. The permit may be extended if the residency purpose has not been achieved yet and can be achieved within a reasonable time frame. The purpose of residence may still be attainable by consulting the host educational institution, as per Section 16b (2) of the Residence Act.

As outlined in Section 16c, students of third countries who already hold a residence title for study purposes in another EU state, can come to Germany to study here for up to two semesters. They will not require any additional residence title, however, the residence title must be valid for the entire duration of their stay. To enroll in a German educational institution, the hosting institution must notify the Federal Office for Migration and Refugees as soon as it becomes known that a study stay is intended. Full notification must be received no later than 30 days before entering Germany. International students who wish to extend their stay beyond the 360 days agreed upon in the EU mobility policy require a study purpose residence permit.

In addition to regulations surrounding the duration of stay and notification deadlines, there are restrictions regarding working hours during the stay. If a TCN holds a residence permit for full- or part-time studies, they are permitted to work up to 120 days or 240 half-days per year. For TCNs in their first year of residency for preparatory measures, holiday periods are the only times they are allowed to work, as set out in Section 16b (3) of the Residence Act. For temporary residence permits issued for preparatory language courses or preparatory company traineeships, the permit duration and time regulations are the same as for full- and part-time studies. Permit holders in these cases are only allowed to work during holidays or as trainees (Section 16b (5) of the Residence Act). For EU training programmes related to studies, a temporary residence permit is granted for the duration agreed upon for the training and for a maximum of six months (Section 16e (2) of the Residence Act). It is the responsibility of both the employed student and the

employer to ensure that the workload is within the legal limits (Sections 404 (2) no. 4 of the Social Code III and 4a (5) no. 1 of the Residence Act).

Benefits, Penalties, and Forgiveness

With regard to benefits, TCNs residing on a study-related residence permit have similar rights and obligations as German students, such as the free choice of seminars and lectures, the right to access the transcripts of oral exams or the obligation to attend courses if they are compulsory. Moreover, TCNs are permitted to engage in employment and part-time student jobs without additional approval as long as the job does not exceed a total of 120 full days or 240 half-days in total (Section 16b (3) of the Residence Act). This also applies if they do not have a temporary residence permit for economic activities. International students are only allowed to work during holidays in the first year of preparatory stay (Section 16b (3) of the Residence Act). However, particular work categories, including mandatory internships or student assistant jobs, are exempt from the 120-day limitation. Furthermore, the employer must inform the foreigners authority of the job, and it may reject it if it is deemed ineligible. For a compulsory internship that is part of the study programme, no additional approval is needed. Also, the working hours do not count towards the 120-day rule. For international students who are seeking a voluntary internship, permission from the foreigners authority is mandatory, and the 120-day rule is applicable. However, the first three months of a voluntary internship can be counted towards the 120-day rule if they have not already been used up. If the voluntary internship exceeds the 120 days or the allotted period of 120 days has already been reached, the TCN must obtain approval of the foreigners authority and the Federal Employment Agency. Any additional economic activities must in general be approved by the foreigners authority and the Federal Employment Agency and may only be carried out on a part-time basis. Permission may be granted in exceptional situations, such as in cases where a person's livelihood is in danger through no fault of their own.

International students also benefit from a certain degree of flexibility regarding their residency status. Throughout their stay, they have the option to change their residence permit for the purpose of quality vocational training or employment as skilled worker. Upon completing their studies successfully, but before their temporary residence permit for study purposes expires, international students can apply for a temporary residence permit for skilled workers seeking employment. If the application is successful, individuals are allowed to remain in Germany for up to 18 months with the purpose of seeking employment that aligns with their qualifications. The appropriate regulations are outlined in Section 20 of the Residence Act. Furthermore, there is an option to transition to a temporary residence permit for self-employment. Therefore, student mobility is profoundly intertwined with Germany's labour migration policy, with regards to this aspect as well as to employment regulations.

If the immigration authority discovers that an international student's progress in their studies is insufficient during the period of their residence permit, the permit may be revoked according to Section 52, Subsection 3, no. 2 of the Residence Act. Furthermore, if the international students work without permission or no longer meet the requirements for a temporary residence permit for the purpose of studying, the residence permit will be revoked (Section 52 (3) no. 3 of the Residence Act). If their work load exceeds one-third of their period of residence and they, thus, work without a permit, they commit an administrative violation and can be fined up to 5000 euros (Section 404, (2), no. 4 of the Social Code III). The Residence Act includes distinct penalties for students who engage in self-employment. This constitutes an administrative offence and can result in a fine of up to 5000 euros (Section 98 (3) no. 1 of the Residence Act). If international students reside in Germany without a valid passport or a passport substitute, if they are enforceably required to leave the FRG, or if their residence title is fraudulently acquired, they have

committed a criminal offence and can be penalised with a fine or a maximum of one year of imprisonment (Sections 95 (1) no. 1 and (2) no. 2, 98 (5) of the Residence Act). However, a degree of leniency (forgiving clause) is granted if the intended purpose of the student's stay cannot be fulfilled due to issues on behalf of the host institution. In this case, the international students are not punished, but are given nine months to find another educational institution (Section 16b (6) of the Residence Act).

Family Reunification Policy

Part 6 of the Residence Act outlines the requirements for residence for family reasons. In addition to residence for educational and economic purposes, as well as residence granted for reasons of international law or on humanitarian or political grounds, family-related residence is a key aspect of German migration policy. This is based on the protection of the institution of marriage and family, as outlined in Article 6 of the Basic Law (Section 27 (1) of the Residence Act). Under German law, spouses, registered partners, parents, and unmarried minor children are eligible to migrate to Germany to join their family members. The conditions for family reunification vary depending on the relationship between the individuals involved and who is seeking to join their family members in Germany. Spousal reunification also applies to same-sex civil partnerships. This report is focused on TCNs, so the analysis will mainly cover conditions of entry and stay, benefits, penalties, and forgiving clauses in relation to TCNs.

Guarantees, Actors, and Characteristics

Entry for the purpose of family reunification is denied if a marriage or civil partnership has been entered into or a kinship has been established solely for the purpose of enabling the persons immigration to Germany. The same applies if there are concrete indications that one of the spouses has been forced into marriage or civil partnership (Section 27 (1a), (2) of the Residence Act). Additionally, the temporary residence permit for the dependants' subsequent immigration may be refused if the sponsor, the person to be joined by the dependants, relies on benefits under Book Two or Book Twelve of the Social Code to support other family or household members as stated in Section 27, Subsection 3 of the Residence Act. The temporary residence permit for the subsequent immigration of dependants may be denied if the sponsor poses a threat to the free democratic basic order or the security of the Federal Republic of Germany. This includes being or having been a member of an organisation that supports terrorism or supporting such an organisation, or preparing or having prepared a serious violent offence endangering the state as described in section 89a (2) of the Criminal Code. The residence permit should also be denied if the sponsor was a leader of an organisation that has been definitively banned due to its purposes or activities violating criminal law, or if it is directed against the constitutional order or the concept of international understanding. If the sponsor is involved in violent activities in the pursuit of political or religious objectives, or publicly calls for or threatens the use of violence, or incites hatred against segments of the population, such as members of certain ethnic groups or religions, they may be denied residence (Section 27 (3a) of the Residence Act).

According to Section 25 of the German Residence Act, TCNs who hold a residence permit for subsidiary protection (Section 25 (2), Sentence 1, Second alternative of the Residence Act), TCNs to whom a deportation ban applies (Section 25 (3) of the Residence Act), TCNs who hold a residence title as victims of human trafficking (Section 25 (4a) of the Residence Act), juveniles, who are defined as minors between 15 and 18 years of age, whose deportation has been suspended and who have subsequently received a residence permit on account of their good integration (Section 25a (1) of the Residence Act) or have received a residence title on account of their sustained integration (Section 25b (1) of the Residence Act), as well as persons who have been

admitted from abroad (Section 22 of the Residence Act) and persons who have received their residence title due to a ruling by supreme *Land* or Federal authorities (Section 23 (1) and (2) of the Residence Act), may only join their family member in Germany in exceptional cases. While the holders of the aforementioned titles might be allowed to join their family members, the holders of the following residence titles cannot be joined by family members: persons whose deportation has been suspended and who have received a residence permit for a temporary stay (Section 25 (4) of the Residence Act), persons with a residence title for victims of a criminal offence in accordance with the Act to Combat Undeclared Work and Unlawful Employment or in accordance with the Act on Temporary Employment Businesses (*Arbeitnehmerüberlassungsgesetz*) (Section 25 (4b) of the Residence Act), persons whose deportation has been suspended due to obstacles to departure for which they are not responsible (Section 25 (5) of the Residence Act), persons who have received a residence permit as parents of well-integrated juveniles (Section 25a (2) of the Residence Act), persons who have received a residence permit as family members of well-integrated juveniles (Section 25b (4) of the Residence Act), and persons who have received a residence permit on the basis of an arrangement on existing cases in accordance with Section 104a, Subsection 1, sentence 1, or Section 105b of the Residence Act.

The conditions for entry and stay of TCNs depend on whether they are joining a German national, an EU citizen, or another TCN, as well as their relationship to the person in Germany. Regulations on the subsequent immigration of family members of EU citizens residing in Germany are covered by Section 3 of the EU Freedom of Movement Act. According to Section 3 of the EU Freedom of Movement Act, family members of EU citizens working in Germany are permitted to accompany the EU citizen. Family members of EU citizens residing in Germany for other reasons may also be accompanied, provided they have health insurance and their subsistence is secured. For students, only their spouses, life partners, or children are permitted to accompany them as stated in Section 4 of the EU Freedom of Movement Act. According to Section 3 of the EU Freedom of Movement Act, TCNs who have joined their EU citizen partner retain the right to remain in the FRG in case of the death of the EU citizen, provided that they have resided in Germany for at least one year. In the event of the death or emigration of an EU citizen, their children who are under the care and custody of the surviving parent will retain their right to stay in Germany for educational purposes. They are permitted to continue their education until graduation, as stated in Section 3, Subsection 3 of the EU Freedom of Movement Act. Non-EU spouses or life partners may also be eligible to remain in Germany following a divorce or dissolution of the marriage or life partnership. Foreign nationals may be permitted to remain in Germany if they have been married or in a life partnership for at least three years while residing in Germany and are currently employed. Alternatively, they may be allowed to stay if they have custody of mutual children or if they need to reside in Germany due to court decision. In addition, they may be permitted to reside in Germany to avoid exceptional hardship. The four options also apply to non-EU spouses or life partners who do not work in Germany but have health insurance and a secure subsistence, as stated in Section 3, Subsection 4 of the EU Freedom of Movement Act.

Foreign nationals can join their German spouse or registered partner as well as their German parent if they are their minor, unmarried children. Additionally, foreign parents of a German child can apply for a temporary residence permit for the purpose of family reunification (Section 28 (1) of the Residence Act). If TCNs wish to join a German citizen, one prerequisite is that the German citizen's main place of residence is in the FRG. The TCN must intend to live with the German citizen as a family unit in the specified location. Children of a German national and the foreign parent of a German minor, unmarried child are exempt from providing evidence of a secured subsistence. This also applies in most of the cases to foreign spouses of a German

national (Section 28 (1) of the Residence Act). Other relatives, such as aunts, uncles or grandparents, may be allowed to join family members residing in Germany to avoid exceptional hardship. The decision is made on a case-by-case basis (Sections 28 (4) and 36 (2) of the Residence Act).

TCNs residing in Germany may be joined by a family member if they possess a permanent residence permit, a long-term residence permit EU, a temporary residence permit, an EU Blue Card, an ICT card, a mobile ICT card, or if they reside in Germany as researchers for short-term mobility. Additionally, they must provide sufficient living space, as required by Section 29, Subsection 1 of the Residence Act. This requirement does not apply to German nationals. EU Blue Card holders who have previously resided in another EU member state on an EU Blue Card and were already living with the applying TCN as a family member in that other member state are exempt from certain requirements. In such case, Blue Card holders are not obliged to provide the stipulated living space. Additionally, the applying dependants are exempt from having to prove a secure subsistence, except for health insurance. Subsection 3 of Section 27 of the Residence Act, which denies temporary residence permits for dependants relying on benefits under Book Two or Book Twelve of the Social Code, is waived. The requirements for a secure livelihood and adequate living space can only be waived for spouses and minor, unmarried children who hold temporary residence titles for specific purposes of international law or on humanitarian or political grounds. For example, if the application is filed three months after the applicant has been recognised as an asylum seeker, refugee or resettler seeking protection, and if the family unit already existed in a non-EU country considered home by the TCNs (Section 27 (2) of the Residence Act). A temporary residence permit may be granted to dependants for subsequent immigration for reasons of international law, on humanitarian grounds, or to safeguard political interests of the FRG. Therefore, TCNs of certain states may receive a residence permit for family purposes as well as survivors of criminal acts or juveniles aged 14 to 18, or young adults aged 18 to 21, whose deportation has been suspended and who are well integrated (Section 29 (3) of the Residence Act). Groups who have held a temporary residence permit for five years may obtain a permanent residence permit. It is important to note that TCNs who are victims of a crime committed in the sphere of the Act to Combat Undeclared Work and Unlawful Employment or the Act on Temporary Employment Businesses, as well as TCNs who are enforceably required to leave the FRG, cannot be joined by their family members among others.

Under Section 29, Subsection 4 of the Residence Act, spouses and minor, unmarried children of TCNs who have been granted protection in Germany and whose family unit has been separated due to fleeing, may be granted a temporary residence permit for subsequent immigration. This applies if the family member has been transferred to Germany by another EU member state or is residing in the EU and requires protection. This applies in deviation from the general requirements for obtaining a residence permit, as stated in Section 5 Subsection 1 of the Residence Act. Additionally, it deviates from the regulation that family reunification can be denied if the sponsor relies on social benefits as specified in Section 27, Subsection 3 of the Residence Act.

In addition to the above mentioned requirements, Section 30 of the Residence Act explicitly regulates the subsequent immigration of spouses. Foreign spouses of TCNs can apply for a temporary residence permit for the subsequent immigration if both spouses are at least 18 years old and the joining spouse can communicate in German at least at a basic level (Level A1 of the Common European Framework of Reference for Languages). In Germany, the TCN must hold a permanent resident permit, an EU long-term resident permit, an EU Blue Card, an ICT-Card, a Mobile-ICT-Card, a temporary resident permit as a researcher or mobile researcher, or be entitled to asylum (Asylberechtigter) or granted refugee status (Section 30 (1) of the Residence Act). Other sponsors may be eligible to be joined if they meet the following criteria: a) they hold a temporary residence

permit in Germany for at least two years without any notification of a restriction on the duration of the permit's validity or exclusion from obtaining a permanent residence permit (persons granted subsidiary protection are excluded), and b) they hold a temporary residence permit that has been granted due to exceptional reasons. Language proficiency requirements may be waived under certain circumstances. For example, exemptions apply to applicants falling under the following categories: Firstly, spouses who are diseased or disabled and unable to learn a language. Secondly, spouses who do not require integration or participation in an integration course. Thirdly, spouses who, due to specific circumstance of the individual case, cannot be expected to gain proficiency in German prior to arrival (Section 30 (1), sentence 3 nos. 2, 3, and 6). The language requirements for TCNs who wish to join their foreign spouse in Germany can be waived if the sponsors already reside in Germany and hold a residence permit on humanitarian grounds. Additionally, the marital union must have existed prior to establishing their main residence in the federal territory. Language and minimum age requirements may be waived if the sponsor resides on an EU long-term residence permit and the marriage had already existed in the other EU member state (Section 30 (1) of the Residence Act). It is important to note that subsequent immigration is not possible for more than one spouse in the case of polygamy (Section 30 (4) of the Residence Act).

After the end of a marital cohabitation, such as divorce or the death of the partner, the spouse's temporary residence permit is extended by one year as an independent right of residence. This extension is unrelated to the purpose of the subsequent immigration of the dependants, provided that the marital cohabitation has lawfully existed in the federal territory for at least three years or the spouse has died during marital cohabitation in the FRG. This only applies if the foreign spouse had a temporary residence permit, permanent settlement permit or an EU long-term residence permit, unless the TCN was unable to apply for an extension in time due to reasons beyond their control. However, in case of spouses of EU Blue Card holders, it is sufficient if they have lived together for two years in the FRG and one year in another EU member state (Section 31 (1a) of the Residence Act). The stated provision does not apply if the temporary residence permit of the TCN cannot be extended or if they are not eligible for a temporary residence permit or an EU long-term residence permit, as per Section 31 (1) of the Residence Act. To avoid particular hardship, the requirement of a certain duration or length of marital cohabitation in the FRG may be waived, unless extending the temporary residence permit of a TCN is not permitted. Particular hardship applies especially if the marriage is invalid or suspended under German law due to the spouse being a minor at the time of marriage. Additionally, if the obligation to return to the country of origin as a result of the termination of marital cohabitation poses a significant threat to the TCN's legitimate interests, or if continuing marital cohabitation is unreasonable due to the harm to the TCN's legitimate interests, particular hardship is also assumed. This is particularly relevant if the spouse is a victim of domestic violence. Legitimate interests also include the well-being of a child who lives with the spouse as part of a family unit. However, the extension of the temporary residence permit may be denied if the spouse residing in Germany relies on benefits under Book Two or Book Twelve of the Social Code for reasons for which he or she is responsible. Section 31 (2) of the Residence Act justifies this measure to prevent abuse of the social welfare system. Nevertheless, it does not apply if the family member joining him or her is in need of benefits under Book Two or Book Twelve of the Social Code. If the spouse does not qualify for a permanent residence permit or an EU long-term permit, their temporary residence permit may be extended. If the TCN residing in Germany has a permanent residence permit or an EU-long term permit and the spouse's financial support is guaranteed through maintenance payments from the TCN after the marriage ends, the spouse will also be granted a permanent settlement permit (Section 31 (3) of the Residence Act).

If minor, unmarried children wish to join their German parent living in Germany, a prerequisite is that the parent is willing and able to live with them in a family unit. If a child wishes to join a TCN living in Germany, the TCN must hold an EU Blue Card, ICT-Card, Mobile ICT-Card, permanent residence permit or an EU long-term permit. Children of individuals entitled to asylum, granted refugee status or subsidiary protection status, as well as those possessing a temporary residence permit for a purpose not covered by the German Residence Act, are also entitled to join. If children are over 16 years old and have not moved with their parents or with the parent with custody, they may immigrate to Germany if they can prove their proficiency in German and their willingness to integrate into German society. The latter can be assumed if they have attended a German school abroad or grown up in a German-speaking household in the EU. However, these conditions do not apply if the parent to be reunited is employed as a skilled worker in Germany and has a permanent residence permit for skilled workers; participants in the European Voluntary Services and researchers and ICTs participating in short-term mobility are excluded. Minor children of short-term researchers do not need a residence title if they are legally resident in the other EU member state as the TCN's dependants. The conditions also do not apply if the parent is a resettler, an asylum seeker, a refugee or has been granted subsidiary protection status. A minor unmarried child of a TCN may also be granted a temporary residence permit to avoid exceptional hardship. The best interests of the child and the family situation must be taken into account (Section 32 (2), (4), and (5) of the Residence Act).

There is a quota of 1000 national visas per month for subsequent immigration of persons who have been granted subsidiary protection status. The temporary residence permit can be granted if it has not been possible for a long time for TCNs and their dependants to live together as a family unit, if a minor unmarried child is affected, if the life, limb or freedom of the spouse is endangered, the child or the parents of a foreign minor are seriously endangered in the country of residence, or if the TCN, the spouse or child or the parents of the child are seriously ill, in need of care or severely disabled, which must be proven by a qualified medical certificate (Section 36a (1) and (2) of the Residence Act). A temporary residence permit for subsequent immigration to join persons granted subsidiary protection is not granted if the spouses were not married before fleeing their home country, the TCN to be joined has incontestably sentenced to a prison term or youth detention, has applied for a border certificate or it is not to be expected that the TCN to be joined will have the temporary residence permit extended or will be granted another residence title (Section 36a (3) of the Residence Act). With regard to TCNs joining a family member residing on a temporary residence permit for humanitarian reasons, particular attention is paid to their integration (Section 36a (2) of the Residence Act).

Children of TCNs born in Germany will generally be granted a residence permit if at least one parent with custody has a temporary residence permit, a permanent residence permit or an EU long-term residence permit. If the parents reside in Germany on the basis of a national visa or a visa waiver programme, the child born is entitled to reside in the country for the duration of the visa-free stay (Section 33 of the Residence Act). As with spouses, the temporary residence permit of children is to be extended if the parent with custody has a temporary residence permit, a permanent residence permit, or an EU long-term residence permit and the children live with the parent in a family unit. When the children reach the age of 18, i.e. when they come of age in Germany, the temporary residence permit granted to them becomes an independent right of residence that is not dependent on the purpose of the subsequent immigration of family members. The same applies to the granting of a permanent residence permit and an EU long-term residence permit or if the temporary residence permit is extended in accordance with the right of return of Section 37 (Section 34 of the Residence Act). In addition, children also have an independent permanent right of residence. The children are to be granted a permanent residence permit if they

have been in possession of a temporary residence permit for the purpose of family reunification for five years when they reach the age of 16. The same applies if the children have reached the age of 18 and have already been in possession of a temporary residence permit for five years, if they have sufficient knowledge of the German language, and if their subsistence is secured or if they are in education or training (Section 35 (1) of the Residence Act). Periods during which children have attended school outside of the FRG are not normally counted towards the required period of possession of a temporary residence permit. The right to independent permanent residence is not to be granted if there is a public interest in expelling the children, if they have been sentenced to youth custody, or if they are dependent on welfare benefits. In these cases, the temporary or permanent residence permit may be extended. If the child is placed on probation or the sentence is suspended, the temporary residence permit is extended until the end of the probation period. The requirements may be waived if the child is unable to fulfill them due to a physical or mental illness or handicap (Section 35 (2) to (4) of the Residence Act).

Temporalities

Temporalities in the German family reunification policy are taken into account in relation to the duration of the marital unit, the date of the marriage or the birth of the child, and the age of the child or the spouse. A residence permit on the grounds of family reunification also depends on the duration of the TCN's stay in Germany. The duration of the various temporary residence permits in this part of the Residence Act differs from those mentioned above in that they can be held for several years and can easily be converted into a permanent residence permit. The temporary residence permit for the subsequent immigration of dependants is granted for the same period of validity as the temporary permit held by the sponsor, provided that the sponsor holds an EU Blue Card, an ICT Card, or a Mobile ICT Card, a temporary residence permit as a long-term or short-term researcher or mobile researcher, or an EU long-term residence permit. In all other cases, the temporary residence permit is issued for an initial period of at least one year (Section 27 (4) of the Residence Act). The TCNs who have joined a German family member are to be granted a permanent residence permit if they have a temporary residence permit for a period of three years, the family unit continued to exist in the FRG, there is no public interest in expelling the TCN and the TCN has sufficient knowledge of the German language. Disabled or ill persons are exempt from these requirements. The temporary residence permit is to be extended as long as the family unit exists (Section 28 (2) of the Residence Act). In the case of a temporary residence permit for the subsequent immigration of spouses, the permit may be extended for as long as the marital cohabitation continues (Section 30 (3) of the Residence Act). In the case of children, the temporary residence permit may be extended in accordance with the children's right of residence as long as the conditions for granting the permanent residence permit and the EU long-term residence permit have not yet been met (Section 34 (3) of the Residence Act).

Benefits, Penalties, and Forgiveness

The temporary residence permit for subsequent immigration of dependants has a significant advantage when it comes to pursuing work in Germany. Section 4a of the Residence Act grants access to the German labour market to TCNs residing in Germany for the purpose of family reunification. It is important to note that economic activity is not prohibited for TCNs in this situation, provided that no other law prohibits it. Moreover, a permanent residence permit can be obtained in just three years instead of five if the TCN joins a German family member. Additionally, minors will also be granted a permanent residence permit if they have held a temporary residence permit for family reunification for at least five years by the time they turn 16, as stated in Section 35 (1) of the Residence Act, which derogates from Section 9(2). In accordance with Section 9, Subsection 1 of the Nationality Act, TCNs who are married to German nationals or who live in a civil partnership with a German national can be

naturalised after three years of habitual residence in Germany instead of eight years. This is only possible if the marriage or civil partnership has existed for at least two years. The necessary duration of the habitual residence can be reduced if the marriage or civil partnership has existed for at least three years. In this context, minor children of TCNs are eligible for naturalisation along with their parent without further requirements regarding their individual habitual residence in Germany (Section 9 (1) of the Nationality Act).

Individuals who provide or use false or incomplete information to obtain a temporary residence permit for the purpose of family reunification, whether for themselves or for others, may be subject to up to three years' imprisonment or a fine (Section 95 (2) no. 2 of the Residence Act). If the offence was committed negligently, it may be treated as an administrative offence and penalised with a fine (Section 98 (1) of the Residence Act).

If TCNs join family members who reside on the grounds of certain humanitarian residence permits, a (mobile) ICT-Card or an EU Blue Card, their residence permit will be revoked if said family members lose their right to stay in Germany. This only applies if the TCNs do not have an independent entitlement to the residence permit (Section 52 (1), (2a) and (2b) of the Residence Act).

The Residence Act stipulates that foreign spouses of TCNs will not lose their permanent residence permit if they leave Germany for at least six months without re-entering provided that the TCNs have lived in the country for at least 15 years, their subsistence is secure, and there is no public interest in expelling them. For foreign spouses of German nationals, TCNs are also protected from losing their permanent residence permit and are exempt from the subsistence requirements outlined in Section 51 (2) of the Residence Act.

Discussion of Research Results

Although Germany did not pass its first immigration law until 2004, it has been shaped and influenced by immigration to varying degrees since its foundation in 1949. From ethnic German expellees and resettlers who immigrated after the Second World War, to recruited guest workers and their families during Germany's economic boom in the 1950s and 1960s, citizens of the former GDR after Germany's reunification, and Middle-Eastern refugees who fled their homes due to civil wars in the new millennium, German migration policies have addressed the challenges of their respective times through various laws, programmes and provisions since the 1950s. However, for decades, Germany's migration policy regime has been characterised by a reactive rather than proactive approach to immigration and a general reluctance to accept Germany's role as an immigration country. With the Immigration Act and the integrated Residence Act of 2004/2005, Germany acknowledged its role in international migration and formulated fundamental migration policies for the first time. These policies consider not only the aspect of integration but also the behaviour of individual migrants to varying degrees.

Former Chancellor Schröder's speech at the Hanover trade fair made skilled migration a desired objective for Germany's pursuit of the smartest minds, future prospects, and response to demographic change and the resulting labour shortage. In light of the potential strain on the current social welfare system due to the retirement of the baby boomer generation, permanent immigration to Germany has been made possible again since the recruitment ban of the 1970s. The Immigration Act of 2004 even encourages immigration, particularly for highly-skilled foreigners. Additionally, integration into German society and the labour market are now key factors in

Germany's migration policy. During the "European migration crisis" in 2015, there was yet again a surge in public attention towards this issue.

The German Residence Act is a set of regulations that is constantly evolving. It aims to secure national interests while also fulfilling Germany's historical and ethical responsibilities as part of the global community, in particular with regards to family reunification policies and the right to asylum. In an interview with the German news magazine *Der Spiegel* in October 2023, Chancellor Scholz announced that Germany must enforce immigration regulations more strictly. He highlighted the need for foreign skilled workers while also emphasising the importance of keeping the door open to asylum seekers facing political persecution. Scholz stated that too many people attempt to enter federal territory. Thus, only individuals belonging to these groups should be allowed to stay (*Der Spiegel*, 2023). Clear rules for entering and residing in the country, including guarantees and penalties for (aspiring) re-migrants should be enforced to control human mobility. At the same time, Germany seeks to address its labour deficit by granting work permits to asylum applicants and TCNs whose deportation has been suspended and offering guarantees and benefits to motivate highly-skilled foreign workers to come to the country. This is being done in the context of demographic change, with varying durations of stay being granted and meticulously listed exemptions for certain TCNs in an attempt to incorporate the human component of aspiring re-migrants' behaviour.

The German migration regime primarily deals with labour migration, family reunification, immigration for educational purposes, immigration on the grounds of humanitarian or political reasons and special rights of residence. Immigration for humanitarian or political reasons and special rights of residence were not considered in the analysis. Instead, the analysis focused on Schengen policy and tourism policy. Therefore, this report presents the conditions of entry and stay in Germany for tourists, workers, self-employed individuals, students, and family members, in accordance with the research question and the characteristics of the German Residence Act. The primary focus is on the mobility of TCNs.

Guarantees regarding the admission and stay of TCNs play a significant role in German migration policies. Such guarantees can be found not only at the beginning of the Resident Act, where general conditions for entry and stay are enumerated in Section 5, but also throughout each individual chapter dealing with a specific type of migration purpose. In principal, Germany attempts to protect its national interests in two different ways. Firstly, the aim is to ensure that residing TCNs are not dependent on social welfare. The second aim is to avoid abuse of the migration system in Germany. In general, the guarantees outlined in Section 5 function as basic requirements for migration to Germany. Germany demands fundamental guarantees for legal identity verification, self-subsistence, and visa or residence title acquisition, based on accurate information and no public interest in expelling the applicant. These guarantees and requirements are especially evident in German labour migration policies. In this context, Germany's primary objective appears to be a robust and reliable social security system. TCNs seeking to migrate for economic reasons must ensure a secure means of subsistence in various ways. This includes possessing a valid work contract or hosting agreement, as well as health insurance and adequate provisions for old age. Depending on the type of permit, TCNs may also need to meet minimum salary requirements or demonstrate a minimum duration of employment. Documentation for the planned return and the requirement for hosting institutions to bear the costs of researchers, who may be required to leave, reveal Germany's attempt to protect the public funds. In the case of labour migration, other examples which provide additional security from Germany's perspective are proof of prior employment of at least 6 months and qualifications equivalent to German standards. To prevent abuse, German labour migration policy involves both international and

national authorities to varying degrees in overseeing the migration process. Germany's attempt to control migration through supervision is particularly evident in its investment-based migration policies. In order to ensure the legality and success of TCNs' business ventures, a closely monitored system of competent authorities at the federal, state, and district level is established. This system aims to promote successful entrepreneurship while also preventing illegal activities. Additionally, a mandatory business plan and proof of economic feasibility, as well as a clean criminal record, are required. This is important not only for the benefit of the TCN, but also for the functionality of Germany's social security system. Similar attempts can also be found throughout other German migration policies. Noteworthy, in the case of migration for the purpose of education, are the obligatory acceptance to a German educational institution, the required language skills for the course of study in question as well as, in the case of traineeships, the host organisation's obligation to bear the cost, providing the TCNs are enforceably required to leave. In this context, it is noteworthy that publicly funded hosting organisations are exempt from bearing the aforementioned costs. Additionally, Germany's family reunification policies, like its other migration policies, aim to prevent abuse and illegal activities while safeguarding public funds. Therefore, if the sponsor is considered a public threat, subsequent immigration of dependants is not permitted. To avoid relying on the social welfare system, sponsors and dependants must live together as a family and have adequate living space and sufficient health care. TCNs with preferred residence permits, such as highly-skilled labourers, receive preferential treatment. Germany's family reunification policies reflect its social values and norms. Subsequent immigration of spouses who are in an illegal marital status in Germany, such as those in forced marriages or those who are minors, is not permitted. In case of polygamous marriages, only the subsequent immigration of one spouse is possible. However, the requirement of basic language skills is often waived for e.g. spouses of sponsors who belong to desired groups such as (highly) skilled migrants or mentally or physically impaired spouses.

However, in addition to safeguarding its own financial, societal, and security interests, Germany has also included specific guarantees for TCNs in its Residence Act. If TCNs have been granted a residence permit for economic activities, they are typically entitled to healthcare and must be paid according to German salary standards. Aspiring self-employed TCNs may be given the chance to start a business without any investment requirements or job quotas. Furthermore, the German student mobility policy grants foreign students the similar rights as German students and facilitates traineeships. If a TCN's school-leaving certificate or prior degrees are not recognised in Germany, they are eligible to enter Germany to participate in preparatory courses. International students are entitled to a nine-month period to search for another educational institution if their residence permit is withdrawn or revoked through no fault of their own. The German family reunification policy provides additional guarantees for TCNs. These guarantees include equal treatment of marriages and civil partnerships, the right to remain in Germany after experiencing divorce, death, or domestic violence, and the possibility of being joined by other family members who are otherwise excluded by law to avoid exceptional hardship. German family reunification policy often waives requirements for humanitarian or political reasons. Children are given special protection. Social values and ethical responsibilities appear to be driving factors of German migration policies, likely due to Germany's self-image in connection to World War II.

While certain guarantees for TCNs, such as access to the German health insurance and welfare system, may already act as incentives, German migration policies also explicitly stipulate benefits for certain types of temporary residence permits. This reveals which types of immigrants are more welcome than others. The granted benefits mainly fall into two categories: firstly, granting easier access to and flexibility in the German labour market. Secondly, accelerating access to permanent residence permits or even citizenships. These benefits are primarily enjoyed by

(highly) skilled workers, successful entrepreneurs, and in some cases, subsequently immigrating spouses (e.g. EU Blue Card-holders). Similarly to guarantees, the given benefits serve as a means to control mobility in a way that is favourable to German national interests. On the one hand, filling the German labour shortage and securing the social security system is of great significance in this context. On the other hand, a quicker route to obtaining legal status considers the need for predictability and facilitates long-term planning and permanent settlement. Additionally, (highly) skilled workers have easier access to family reunification, while students generally benefit from the absence of tuition fees at German universities. International students are permitted to work part-time without an economic activity permit and are given a transition period to find employment after graduation. This is because Germany is interested in retaining young, highly educated individuals in the country. Additionally, spouses who immigrate for family reunification purposes are typically granted access to the German labour market.

The German Residence Act includes provisions for acceptable and unacceptable behaviour. Unacceptable behaviour related to migration is generally included in the Residence Act itself, while concrete penalties can often be found in the Social Code or in separate legal texts, such as the Act to Combat Undeclared Work and Unlawful Employment. To ensure consistency, a standard set of penalties is applied to all mobility policies. Some penalties, however, only apply to certain mobility policies. Entering Germany without a visa or a residence permit, as well as procuring a residence permit under false pretenses, is generally considered an administrative offence and can result in a fine of up to 3000 euros or imprisonment of one to three years, respectively. Similarly, like German nationals, TCNs are also held accountable for working without a permit or employing persons without a permit. This also applies to trial work that exceeds the permitted hours or for exceeding the permitted hours for student part time jobs. In general, TCNs will be fined for working without a permit. Significantly higher fines are issued if self-employed TCNs employ persons without a work permit. The issued fines may be up to 500,000 euros or, if the offence is committed repeatedly, result in imprisonment. In relation to undeclared work and unlawful employment, it is important to note that TCNs are treated equally to German or other EU citizens. Both employees and employers are held accountable, regardless of their nationality. However, international students may have their residence permit revoked if they work without a permit or if the authorities discover that they do not meet the average progression requirements of their course of study. Revocation of a temporary residence permit is considered in Section 52 of the Residence Act. Residence permits may generally be revoked if the authorities deem the TCN's stay to be unlawful. However, the German legal framework includes forgiving clauses (negligence clauses). Generally, German law distinguishes between intentionally and negligently committed offences. Leniency can be granted in cases of overstaying one's visa if the offence was committed negligently and mitigating circumstances, such as the absence of a criminal record, are established. Furthermore, students have the right to a transitional phase of nine months to search for a new educational institution if they are unable to fulfill their purpose of stay due to issues on behalf of the host entity.

Regarding temporalities, some durations are commonly emphasised. For example, the policies analysed, such as the Schengen and tourism policy, frequently refer to 90 days within a 180-day period. Legislative changes have reduced the required lawful stay for obtaining a permanent residence permit from eight years to five years. Additionally, certain temporary residence permits can accelerate the process of obtaining a permanent residence permit. In this regard, quicker access to permanent residence permits and to German citizenship is also included as a benefit for TCNs and particularly applies to (highly) skilled workers. Despite the otherwise strict regulations concerning the duration of granted temporary residence permits, the Residence Act includes exemptions, particularly for family reunification. Spouses and children may obtain an independent

and, in the case of children, permanent right to reside in the FRG. In the event of the death, divorce, or emigration of a spouse or registered partner, the aforementioned family members may remain in the country, for example to continue their school education or studies.

Conclusion

Given demographic change, concerns about destabilising the social security system, declining economic growth, challenges of integration, and growing public security interests, Germany faces the complex issue of protecting national interests while being dependent on international migration. In this context, considering human behaviour is vital for comprehending the effectiveness of mobility policies and individuals' motivation to take certain migration routes. Germany's mobility policies take human behaviour into account mainly in order to create a legal framework for international mobility that is favourable to Germany's economic and societal interests. This is particularly evident in German policies on student mobility and labour migration. To remain competitive in a rapidly evolving global economy while ensuring domestic stability, international students are viewed as a wise investment. As a result, German policy not only seeks to encourage talented young students to come to Germany but also to remain here. Germany's objective is to leave space for changing aspirations, unexpected life events and labour market realities. This is achieved through relatively flexibility in converting one's purpose of residence, paired with a generous 18-months transition phase to find employment after graduation. Similar conditions, particularly regarding job transitions, apply to labour migrants who are considered desirable due to their vocational or educational qualifications. Additionally, human behaviour is also evident in German family reunification policy. Although it is not directly linked to protecting national economic interests, it does allow for permanent residence by granting the right to stay based on subsequent immigration of dependants in cases of drastic life events such as divorce, death, domestic violence, or other exceptional hardships. Mobility within the EU is another aspect of German or European mobility policies which considers human behaviour. In the light of globalisation, it allows for relative flexibility in the choice of one's workplace or place of residence. German mobility policies also take human error into account by leaving room for forgiveness. This includes negligence clauses that mitigate penalties for unintentional offences. In conclusion, consideration of human behaviour is one aspect of German mobility policy, as it serves as a means to accomplish national goals. It is important to note that this consideration is not always prominently featured.

Notes

¹ According to the M49 Standard of the United Nations, Hong Kong and Macao are considered to be Special Administrative Regions of China. Since Germany does not recognize Taiwan as a state, the category "China" includes Hong Kong, Macao, and Taiwan.

² Figure 1 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706174041988&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0020&auswahltext=&nummer=5&variable=5&name=GES&werteabruf=Werteabruf#abreadcrumb>

³ Figure 2 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706174453849&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0001&auswahltext=&nummer=4&variable=4&name=GES&werteabruf=Werteabruf#abreadcrumb>;
<https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706175620145&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0002&auswahltext=&nummer=6&variable=6&name=GES&nummer=5&variable=5&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>;
<https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706175620145&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0002&auswahltext=&nummer=6&variable=6&name=GES&nummer=5&variable=5&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>;
<https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706175620145&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0002&auswahltext=&nummer=6&variable=6&name=GES&nummer=5&variable=5&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>

⁴ Figure 3 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706179383830&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0021&auswahltext=&nummer=6&variable=6&name=GES&nummer=5&variable=5&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>

⁵ The share of naturalisations among the Turkish population in Germany in 2022 is based on data of the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=1&levelid=1706179964723&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12511-0003&auswahltext=&nummer=5&variable=5&name=GES&nummer=7&variable=7&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>

⁶ Figure 4 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706180586466&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0002&auswahltext=&nummer=6&variable=6&name=GES&nummer=5&variable=5&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>

⁷ Figure 5 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706181237350&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0003&auswahltext=&nummer=6&variable=6&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>

⁸ Figure 6 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706181237350&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0003&auswahltext=&nummer=6&variable=6&name=STAAG6&werteabruf=Werteabruf#abreadcrumb>

⁹ Figure 7 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706182360569&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0008&auswahltext=&nummer=6&variable=6&name=STAAG6&nummer=5&variable=5&name=RECGL3&werteabruf=Werteabruf#abreadcrumb>

¹⁰ Figure 8 is based on data from the Federal Statistical Office of Germany (Destatis), Genesis-online under the Data licence Germany – attribution – Version 2.0, www.govdata.de/dl-de/by-2-0. URI: <https://www-genesis.destatis.de/genesis/online?operation=abruftabelleBearbeiten&levelindex=2&levelid=1706182772718&auswahloperation=abruftabelleAuspraegungAuswaehlen&auswahlverzeichnis=ordnungsstruktur&auswahlziel=werteabruf&code=12521-0001&auswahltext=&nummer=4&variable=4&name=FA-MIL2&werteabruf=Werteabruf#abreadcrum>

¹¹ According to the Ordinance the certain fields are the production of goods, logistics, and the mining and construction industry. The concerned academic professionals are managers in information and communication services, managers in the social sector, natural scientists, mathematics, and engineers, doctors, medical professionals, veterinarians, teaching personnel, and skilled workers in the field of information and communication technology.

¹² TCNs residing under preferential conditions are those who have the same legal status as German workers with regard to the right to take up employment or those who are entitled to preferential access to the labour market under EU law.

References

- Auswärtiges Amt. (2022). *Visum für Deutschland*. Retrieved December 14, 2023, from <https://www.auswaertiges-amt.de/de/service/fragenkatalog-node/-/606772?openAccordionId=item-606506-5-panel>
- Auswärtiges Amt. (2023a). *The Schengen Agreement*. Retrieved December 14, 2023, from <https://www.auswaertiges-amt.de/en/visa-service/-/231202>
- Auswärtiges Amt. (2023b). *Statistik zu erteilten Visa*. Retrieved December 14, 2023, from <https://www.auswaertiges-amt.de/de/service/visa-und-aufenthalt/-/2231558>
- Auswärtiges Amt. (2023c). *Overview of Visa Requirements/Exemptions for Entry into the Federal Republic of Germany*. Retrieved December 14m 2023, from <https://www.auswaertiges-amt.de/en/visa-service/-/231148>
- Aydin, Y. (2016). *The Germany-Turkey Migration Corridor. Refitting Policies for a Transnational Age*. Migration Policy Institute.
- Bade, K. J. & Oltmer, J. (2007): Deutschland. In Bade, K. J., Emmer, P. C., Lucassen, L. & Oltmer, J. (Eds.), *Enzyklopädie Migration in Europa. Vom 17. Jahrhundert bis zur Gegenwart* (pp. 141-170), Schöningh.
- Bauer-Blaschkowski, S. (2022). Migrationspolitik der Großen Koalition. Im Spagat zwischen Obergrenze, geordneter Rückkehr, Fachkräfteeinwanderung und Beschäftigungsduldung. In Zohlhöfer, R. & Engler F. (Eds.), *Das Ende der Merkel-Jahre. Eine Bilanz der Regierung Merkel 2018-2021* (pp. 353-385), Springer VS.
- Bendel, P. (2014). *Coordinating Immigrant Integration in Germany. Mainstreaming at the Federal and Local Levels*. Migration Policy Institute Europe.
- Beuchling, O. (2003). *Vom Bootsflüchtling zum Bundesbürger. Migration, Integration und schulischer Erfolg in einer vietnamesischen Exilgemeinschaft*. Waxmann.
- Bieber, H. J. (2014). *SS und Samurai. Deutsch-Japanische Kulturbeziehungen, 1933-1945*. Iudicium.
- Bösch, F. & Su, P. H. (2018). *Invisible, Successful, and Divided Vietnamese in Germany since the late 1970s*. Working Paper, 15. DOI: <https://doi.org/10.35188/UNU-WIDER/2018/457-5>.
- Borkert, M. & Bosswick, W. (2007). *Migration Policy-Making in Germany. Between National Reluctance and Local Pragmatism?* IMISCOE Working Paper, 20, 1-29.
- Bundesamt für Migration und Flüchtlinge. (2023). *Migrationsbericht 2020. Zentrale Ergebnisse*. https://www.bamf.de/SharedDocs/Anlagen/DE/Forschung/Migrationsberichte/migrationsbericht-2020-zentrale-ergebnisse.pdf?__blob=publication-File&v=5#:~:text=Gut%20zwei%20Drittel%20der%20abwan,und%20Ozeanien%204%2C6%20%25.

Coi, S.-J. & Lee, Y.-J. (2005). Umgekehrte Entwicklungshilfe. Die koreanische Arbeitsmigration in Deutschland. In Kölner Kunstverein (Ed.), *Projekt Migration* (pp. 831-832), DuMont.

Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH. (2022). *Sustainable Recruitment of Nurses (Triple Win)*. Retrieved December 14, 2023, from <https://www.giz.de/en/worldwide/41533.html>

Deutscher Bundestag (2016). *Änderungen des Asyl- und Aufenthaltsrechts seit Januar 2015 mit den Schwerpunkten Asylpaket I und II*. <https://www.bundestag.de/resource/blob/424122/05b7770e5d14f459072c61c98ce01672/WD-3-018-16-pdf-data.pdf>

Deutsches Wirtschaftsbüro (2022). *German and Taiwanese Travelers can now Use the E-Gate/EasyPass Systems under a New Agreement*. Retrieved December 14, 2023, from <https://taiwan.ahk.de/news/newsfeed/news-detail/german-and-taiwanese-travelers-can-now-use-the-e-gate-system-under-the-new-agreement>

Directorate-General for Migration and Home Affairs. (2023a). *What is ETIAS*. Retrieved December 14, 2023, from https://travel-europe.europa.eu/etias/what-etias_en

Directorate-General for Migration and Home Affairs. (2023b). *What you Need to Apply*. Retrieved December 14, 2023, from https://travel-europe.europa.eu/etias/what-you-need-apply_en

Duscha, T. (2014). Spiegelbild der thailändischen Gesellschaft. Thai Communities in Deutschland. *Südostasien*, 4, 19-21.

Etling, S. (2008). *Die philippinische Diaspora in Deutschland. Ihr Beitrag zur Entwicklung der Philippinen*. Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ).

Federal Ministry of the Interior and Community. (2023). *Skilled Immigrants: an Asset to our Country*. Retrieved December 14, 2023, from <https://www.bmi.bund.de/EN/topics/migration/immigration/labour-migration/skilled-immigration/skilled-immigration-node.html>

Federal Office for Migration and Refugees. (2020). *Studying in Germany*. Retrieved December 14, 2023, from <https://www.bamf.de/EN/Themen/MigrationAufenthalt/ZuwandererDrittstaaten/Bildung/Studium/studium-node.html>

Friedery, R. (2022). Hardening Borders during the Pandemic in the European Union. The Shape of the Schengen Borders Code and the EU Digital COVID Certificate. *Quarterly on Refugee Problems*, 61(1), 71-84.

Giese, K. (2003). New Chinese Migration to Germany. Historical Consistencies and New Patterns of Diversification within a Globalized Migration Regime. *International Migration*, 41(3), 155-185.

Hanewinkel, V. & Oltmer, J. (2018). *Historical and Current Development of Migration to and from Germany*. Bundeszentrale für politische Bildung. <https://www.bpb.de/themen/migration-integration/laenderprofile/english-version-country-profiles/262758/historical-and-current-development-of-migration-to-and-from-germany/>

Heider, B. Stoms, P. Koch, J. & Siedentop, S. (2020): Where do Immigrants Move in Germany? The Role of International Migration in Regional Disparities in Population Development. *Population, Space and Place*, 26(8), 1-19. DOI: <https://doi.org/10.1002/psp.2363>.

Hess, C. & Green, S. (2016). Introduction. The Changing Politics and Policies of Migration in Germany. *German Politics*, 25(3), 315-328. DOI: 10.1080/09644008.2016.1172065.

Hickmann, C. & Kurbjuweit, D. (2023, October 20). *Scholz und die Flüchtlingspolitik. „Wir müssen endlich im großen Stil anschieben“*. Der Spiegel. <https://www.spiegel.de/spiegel/print/index-2023-43.html>

IHK Region Stuttgart. (2018). *Self Employment by Foreigners*. Retrieved December 14, 2023, from <https://www.ihk.de/stuttgart/english/services2/business-support/self-employment-by-foreigners-3977972>

Kaucher, S., Deckert, A., Becher, H. & Winkler, V. (2017): Migration Pattern and Mortality of Ethnic German Migrants from the Former Soviet Union. A Cohort Study in Germany. *BMJ Open*, 7, 1-8. DOI:10.1136/bmjopen-2017-019213.

Ministry of Foreign Affairs of Japan. (2023). *The Working Holiday Programmes in Japan*. Retrieved December 14, 2023, from https://www.mofa.go.jp/j_info/visit/w_holiday/index.html

Rietig, V. & Müller, A. (2016). *The New Reality. Germany Adapts to its Role as a Major Migrant Magnet*. Migration Policy Institute. <https://www.migrationpolicy.org/article/new-reality-germany-adapts-its-role-major-migrant-magnet>

Schaland, A-J. & Schmiz, A. (2015). *Die Vietnamesische Diaspora in Deutschland*. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

Scherrer, A. & Thirion, E. (2018). Citizenship by Investment (CBI) and Residency by Investment (RBI) schemes in the EU. State of Play, Issues and Impacts. [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/627128/EPRS_STU\(2018\)627128_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/627128/EPRS_STU(2018)627128_EN.pdf)

Wolf, B. (2007). *Die vietnamesische Diaspora in Deutschland. Struktur und Kooperationspotenzial mit Schwerpunkt auf Berlin und Hessen*. Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH.

Woon-sup, Y. & Hae-dong, K. (1995). *Die koreanischen Bergarbeit in Deutschland. Gestern und Heute*.

ANNEXES

Annex 1 – Mobility policies in Germany

Table 1. Germany’s Schengen Policy

themes (indicators)	dimensions	actors	characteristics	temporality
guarantee(s) (conditions of entry/stay)		Embassies, consulates, external providers included in the visa application process		
Valid passport Visa fee of 80 euros (Regulation No. 2019/1155/EU)		TCNs; exempt are citizens of EU countries and Iceland, Liechtenstein, Norway, and Switzerland, and citizens of countries with a visa waiver agreement		Visa application process can take up to several months
Visa Category A (Airport transit) (Regulation No. 810/2009/EC)		TCNs travelling from a non-Schengen country to another non-Schengen country with connecting flights at the airport of a Schengen country (Regulation No. 810/2009/EC)		Valid for airport transit (Regulation No. 810/2009/EC)
Visa Category C (Short stay) (Regulation No. 810/2009/EC)				
<ul style="list-style-type: none"> - single entry visa 		TCNs entering the Schengen Area once during the 180-day period (Regulation No. 810/2009/EC)		
<ul style="list-style-type: none"> - double entry visa 		TCNs entering the Schengen Area twice during the 180-day period (Regulation No. 810/2009/EC)		Valid for 90 days within a 180-day period (Regulation No. 810/2009/EC)

<p>- multiple entry visa</p> <p>Visa Category D (National long-stay visa) (Regulation No. 265/2010/EU)</p> <p>Either copy of the notification of the host institution of the other EU state or proof of the business purpose in case the title was not issued by a Schengen state or the TCNs enter Germany via a non-Schengen state (Section 18h (1) and 19a (1) of the Residence Act)</p>	<p>TCNs entering the Schengen Area multiple times during the 180-day period (Regulation No. 810/2009/EC)</p> <p>TNCs who plan to stay for more than 90 days up to one year for the purpose of work, study, and family purposes (Regulation No. 265/2010/EU)</p> <p>TCNs participating in EU mobility (Section 18h (1) and 19a (1) of the Residence Act)</p>		<p>Valid for more than 90 days up to one year (Regulation No. 265/2010/EU)</p> <p>Extension only possible for humanitarian and severe personal reasons or due to force majeure (Article 33 of (EC) 810/2009/EC Ordinance)</p>
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benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)
<p>Right to stay in the Schengen Area (for up to one year)</p> <p>Same travel rights for TCNs as EU citizens (except Visa Category A)</p>	<p>No valid passport/ID: one year's imprisonment or a fine of up to 3000 euros (Section 95 (1) no. 1 and Section 98 (5) of the Residence Act)</p> <p>No valid visa or residence title: criminal offence → one year's imprisonment or a fine of up to 3000 euros (Section 95 (1) no. 2 of the Residence Act)</p> <p>Working while holding a Schengen visa: criminal offence → one year's imprisonment or a fine (not national visa).(Section 95 (1a) of the Residence Act)</p>	<p>Committed negligently: administrative offence → fine (Section 98 (1) of the Residence Act)</p> <p>further mitigating circumstances are e.g. the absence of a criminal record or a short period of overstay (LG Landshut, verdict of 16.11.2009 – 2 Ns 35 Js 26732/08)</p>	<p><u>EU level:</u> Regulation 2019/1155/EU of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code)</p> <p>Regulation No 265/2010/EU of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa</p> <p>Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas</p> <p><u>National level:</u> -</p> <p><u>Other national laws mentioned:</u> -</p>

Table 2. Germany's Policy on Tourism

themes (indicators)	dimensions	actors	characteristics	temporality
guarantee(s) (conditions of entry/stay)	Schengen countries Industry Competent mission EU embassy and consulate	Foreigners authority		
Entry and residence rely on the joint visa policy of the Schengen member states				
No visa required	Citizens from the Schengen member states			Stay of up to 90 days in a 180-day period
No visa required Note: Entry may be denied as member countries of the Schengen Area have the right to refuse entry under certain conditions	TCNs	Citizens of nations which have executed a visa waiver agreement with the Schengen member states (e.g., Japan, Hongkong)		
Visa application at the competent mission (visa fee 80 euros) (Regulation No. 2019/1155/EU)	TCNs	Citizens of nations which have not signed a visa waiver agreement (e.g., the People's Republic of China, the Philippines, Vietnam)	Visa application process can take up to several month	
Requirement: visa not geographically restricted	TCNs	Exemption: Citizens of nations which have not signed a visa waiver agreement residing in the Schengen Area		
Application for a temporary residence permit at the appropriate foreigners authority	TCNs	Entry without a visa due to a visa waiver programme and people holding a Schengen visa	More than 90 days for the purpose of work or study	
<p style="text-align: center;">***</p>	<p style="text-align: center;">***</p>	<p style="text-align: center;">***</p>	<p style="text-align: center;">***</p>	<p style="text-align: center;">***</p>
<u>From 2025 onwards European Travel Information and Authorisation System (ETIAS)</u>				

<p>ETIAS waiver (valid passport, computer or mobile device with internet access, valid form of payment – fee of 7 euros) (Directorate-General for Migration and Home Affairs, 2023b)</p>	<p>TCNs Individuals either under 18 or over 70 years of age are exempt from paying the fee (Directorate-General for Migration and Home Affairs, 2023b)</p>	<p>Citizens of visa-exempt countries (Directorate-General for Migration and Home Affairs, 2023a)</p>	<p>Stay of up to 90 days in a 180-day period (Directorate-General for Migration and Home Affairs, 2023a)</p> <p>Approved ETIAS authorisation valid for three years or until the expiry of the travel document (Directorate-General for Migration and Home Affairs, 2023a)</p>
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<p>benefits (rights/privileges of entry/stay)</p>	<p>penalty/ties (penalising clause/article for IFs)</p>	<p>forgiveness (forgiving clause/article)</p>	<p>referrals (connecting with other mobility policies)</p>
<p>Right to stay in the Schengen Area (for up to one year)</p> <p>Free travel in all 27 countries within the Schengen Area throughout the visa's validity</p> <p>***</p> <p><u>European Travel Information and Authorisation System (ETIAS)</u></p> <p>Right to stay in the Schengen country for citizens of visa-exempt countries</p> <p>Free travel within the Schengen Area</p>	<p>No valid visa or residence title: criminal offence → one year's imprisonment or a fine of up to 3000 euros (Section 95 (1) no. 1 of the Residence Act)</p>	<p>Committed negligently: administrative offence → fine (Section 98 (1) of the Residence Act)</p>	<p><u>EU level:</u> Regulation 2019/1155/EU of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code)</p> <p>Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas</p> <p><u>National level:</u> -</p> <p><u>Other national laws mentioned:</u> -</p>

Table 3. Germany's Labour Migration Policy: Highly-Skilled Migrants

<div style="text-align: right;">dimensions</div> themes (indicators)	actors	characteristics	temporality
<p>guarantee(s) (conditions of entry/stay)</p> <hr/> <p>Valid passport (Section 3 (1) of the Residence Act) Clean criminal record Secured subsistence No public interest in the expulsion of the TCN (Section 5 (1) no. 2 of the Residence Act) Visa application (visa fee 80 euros) (Regulation No. 2019/1155/EU)</p> <p>Concrete job offer (Section 18 (2) no. 1 of the Residence Act) Approval by the Federal Employment Agency (Section 18 (2) no. 2 of the Residence Act) Permission to practise the profession (Section 18 (2) no. 3 of the Residence Act) Establishment of the equivalence of the qualification (Section 18 (2) no. 4 of the Residence Act) Adequate provision for old age or salary corresponding to at least 55% of the earnings ceiling of the general pension scheme (Section 18 (2) no. 5 of the Residence Act)</p>	<p>Federal Employment Agency Federal Ministry of the Interior and Community Foreigners Authority Chambers of Trade Government Agencies Host organisation</p> <p>Skilled workers (Section 18 of the Residence Act)</p> <p>Country nationals who must hold a visa</p> <p>Skilled workers with vocational training or university degree (Section 18 (2) no. 5 of the Residence Act) Employment in public interest: no requirements for salary or provisions for old age</p>	<p>Older than 45 years (Section 18 (2) no. 5 of the Residence Act)</p>	<p>Permanent residence permit after four years of stay</p> <p>Visa application process can take up to several month</p> <p>In case of skilled workers with vocational training qualification or university degree, EU Blue Card holders, and workers with other employment purposes, valid for four years (Section 18 (4) of the Residence Act)</p>

<p>Effective hosting agreement or equivalent contract with a research organisation which conducts research or carries out a research project (Section 18d (1) no. 1 of the Residence Act)</p> <p>Host research organisation bears the cost of the TCN's subsistence during an unlawful stay in an EU member state and the TCN's deportation (Section 18d (1) no. 2 of the Residence Act)</p> <p>May be waived if research organisation is financed from public funds or if there is special public interest in the research project (Section 18d (2) of the Residence Act)</p> <p>Entitles to take up research at the research organisation and teaching activities: Changes to the research project do not cause the entitlement to expire (Section 18d (5) of the Residence Act)</p> <p>International protection status: TCN has stayed for at least two years in an EU member state after being granted protection (Section 18d (6) of the Residence Act)</p> <p>Hosting agreement (Section 18d (1) no. 1 of the Residence Act)</p> <p>Host research organisation bears the cost of the TCN's subsistence during an unlawful stay in an EU member state and the TCN's deportation (Section 18d (1) no. 2 of the Residence Act)</p> <p>Notification of the Federal Office of Migration and Refugees and the competent authority</p>	<p>Researchers (Section 18d of the Residence Act)</p> <p>TCNs</p> <p>Short-term mobility researchers (Section 18e of the Residence Act) (no residence title required)</p>	<p>TCN who has international protection status</p>	<p>Temporary residence permit is to be granted 60 days after the application was done (Section 18d (1) of the Residence Act)</p> <p>Valid for at least one year or duration of research project, if it is shorter (Section 18d (4) of the Residence Act)</p> <p>In case of Union or multilateral programme: valid for at least two years or duration of the research project, but at least one year (Section 18d (4) of the Residence Act)</p> <p>Stay does not exceed 180 days in a 360-day period (Section 18e (1) of the Residence Act)</p>
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<p>of the other member state (Section 18e (1) of the Residence Act) Valid residence title for research purposes of the other EU member state Hosting agreement Copy of the recognised and valid passport or passport substitute Secured subsistence Copy of notification (Section 18e (1) of the Residence Act) Entitles to take up research and teaching activities (Section 18e (4) of the Residence Act)</p> <p>Exemption from residence title ceases (Section 18e (4) of the Residence Act)</p> <p>Residence title issued by another EU member state in accordance with Directive 2016/801/EU Copy of recognised and valid passport or passport substitute Hosting agreement (Section 18f (1) of the Residence Act)</p> <p>Entitles to take up research and teaching activities (Section 18f (3) of the Residence Act) TCN and host organisation are obliged to inform the foreigners authority of any changes to the requirements (Section 18f (4) of the Residence Act)</p>	<p>Responsibility for further measures and decisions rests with the foreigners authority (Section 18e (6) of the Residence Act)</p> <p>Mobile Researchers (Section 18f of the Residence Act) (Without the consent of the Federal Employment Agency)</p>	<p>Issued by an EU, but non-Schengen state (Section 18e (1) of the Residence Act)</p> <p>Status denied</p>	<p>Notification as soon as possible (Section 18e (1) of the Residence Act)</p> <p>If notification was made in time and stay has not been denied, the FRG may be entered at any time during the validity of the residence title (Section 18e (2) of the Residence Act)</p> <p>In case of denial, immediate ceasing of research activities (Section 18e (4) of the Residence Act)</p> <p>More than 180 days but no more than one year (Section 18f (1) of the Residence Act)</p> <p>Application filed at least 30 days prior to the beginning of the stay and residence title of the other member state continues to be valid: residence and economic activity is permitted for up to 180 days in a 360-day period until the foreigners authority decides on the issue (Section 18f (2) of the Residence Act)</p>
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<p>Salary of at least 50% of the earnings ceiling of the general pension scheme No reason for refusal (Section 18g (1) of the Residence Act) Employment of at least six months (Section 18g (3) of the Residence Act)</p> <p>Salary of at least 45.3% of the annual income limit of the general pension scheme (Section 18g (1) of the Residence Act)</p> <p>Salary of at least 45.3% of the annual income limit of the general pension scheme No reason for refusal Three years of work experience within the last seven years (Section 18g (2) of the Residence Act)</p> <p>Work as manager or specialist at the host entity</p> <p>Job offer of at least six months (Section 18g (3) of the Residence Act)</p> <p>Subsistence considered secure if holding a temporary residence permit as skilled worker with vocational training or university degree (Section 18g (5) of the Residence Act)</p> <p>EU Blue Card granted by another EU member state (Section 18h (1) of the Residence Act) Work-related stay</p>	<p>Applicants for EU Blue Card (Section 18g of the Residence Act) (Without consent of the Federal Employment Agency)</p> <p>Aspiring managers in certain fields and academic professionals with a degree less than three years old (Section 18g (1) nos. 1 and 2 of the Residence Act) (With consent of the Federal Employment Agency)</p> <p>TCNs in the IT and communication sector without university degree</p> <p>Short-term mobility EU Blue Card holders (Section 18h of the Residence Act) and holders of an EU long-term residence permit who were in possession of an EU Blue Card (Section 18h</p>	<p>Skilled worker with academic qualification (Section 18g (1) of the Residence Act)</p>	<p>Stay does not exceed 180 days in a 360-day period (Section 18h (1) of the Residence Act)</p>
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<p>Carrying EU Blue Card and evidence of the business with themselves (Section 18h (1) of the Residence Act)</p> <p>EU Blue Card granted by another EU member state (Section 18i (1) of the Residence Act) Having resided in the respective EU country for at least 12 months (Section 18i (1) of the Residence Act)</p> <p>Salary of at least 50% of the earnings ceiling of the general pension scheme No reason for refusal (Section 18i (1) of the Residence Act, cf. 18g (1) of the Residence Act) Employment of at least six months (Section 18i (1) of the Residence Act, cf. Section 18g (3) of the Residence Act)</p> <p>Salary of at least 45,3% of the annual income limit of the general pension scheme (Section 18i (1) of the Residence Act, cf. Section 18g (1) of the Residence Act)</p> <p>Salary of at least 45,3% of the annual income limit of the general pension scheme No reason for refusal Three years of work experience within the last seven years (Section 18i (1) of the Residence Act, cf. Section 18g (2) of the Residence Act)</p>	<p>(2) of the Residence Act) (no residence title required, residence permit without the consent of the Federal Employment Agency)</p> <p>Long-term mobility of EU Blue Card holders (Section 18i of the Residence Act)</p> <p>EU Blue Card holders staying less than two years in the EU member state (Section 18i (1) no. 1 of the Residence Act) and EU Blue Card holders who obtained the EU Blue Card for training qualifications of a job which is not listed in Appendix I of the EU Directive (EU) 2021/1883 (Section 18i (1) no. 2 of the Residence Act) are exempt</p>	<p>EU Blue Card granted by an EU, but non-Schengen state (Section 18h (1) of the Residence Act)</p>	<p>Long-term mobility can be used several times → reduction of the time TCN has to spend in the other EU member state (Section (3) of the Residence Act)</p> <p>Participation in long-term mobility in line with Article 21 of the EU Directive 2021/1883: permitted to stay in another EU member state only for six months (Section 18i (3) of the Residence Act)</p>
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<p>Work as manager or specialist at the host entity</p> <p>Employment of company for at least six month prior to the transfer (Section 18i (1) of the Residence Act, cf. Section 18g (3) of the Residence Act)</p> <p>Qualification equivalent to German standards (Section 18i (1) sentence 2 of the Residence Act, cf. Section 18 (2) no. 4 of the Residence Act)</p> <p>Carrying the EU Blue Card and evidence of the job offer (Section 18i (1) of the Residence Act)</p> <p>The intra-corporate transfer exceeds 90 days Intra-corporate transfer as manager or specialist</p> <p>Employment for at least six month prior to the transfer</p> <p>Uninterrupted employment during the transfer period</p> <p>Work contract</p> <p>Proof of professional qualification</p> <p>If necessary, assignment letter stating detailed information on the working conditions</p> <p>Proof of the TCN's return after the transfer (Section 19 (2) nos. 1 to 5 of the Residence Act)</p> <p>Employment of company for at least six month prior to the transfer and uninterrupted employment during the transfer</p>	<p>Intra-Corporate Transferees (Section 19 of the Residence Act) TCNs who enjoy rights of free movement equivalent to those of Union citizens, TCNs employed by an undertaking in a third country, and TCNs completing a training programme as part of their studies are excluded (Section 19 (5) of the Residence Act)</p> <p>Trainee employees (Section 19 (3) of the Residence Act)</p>	<p>EU Blue Card granted by an EU, but non-Schengen state (Section 18i (1) of the Residence Act)</p> <p>TCN with a university degree (Section 19 (3) of the Residence Act)</p>	<p>Carrying the EU Blue Card and evidence of the job offer for a duration of at least six months (Section 18i (2) of the Residence Act)</p> <p>The intra-corporate transfer exceeds 90 days (Section 19 (2) of the Residence Act)</p> <p>Validity of the ICT-Card: In case of managers and specialists, for the duration of the transfer, does not exceed three years In case of trainee employees, duration of the transfer, does not exceed one year Extensions of the ICT-Card may not exceed the maximum periods (Section 19 (4) of the Residence Act)</p> <p>The application of the ICT-Card is rejected, if the TCN will spend more time in another EU member state than</p>
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<p>The intra-corporate transfer exceeds 90 days Work contract If necessary, assignment letter stating detailed information on the working conditions (Section 19 (2) nos. 2 to 4 of the Residence Act, cf. Section 19 (3) no. 2 of the Residence Act)</p> <p>Notification of the Federal Office for Migration and Refugees and the competent authority in Germany by the host entity Proof of the TCN's valid residence title granted by another EU member state Proof that the national host entity belongs to the same undertaking as the undertaking by which the TCN is employed Work contract or, if necessary, an assignment letter Copy of the TCN's recognised and valid passport or passport substitute If necessary, proof of the permission to practise a profession If requirements are met, a residence title is not required (Section 19a (1) of the Residence Act)</p> <p>Carrying a copy of the notification (Section 19a (1) of the Residence Act)</p>	<p>ICTs with short-term mobility (Section 19a of the Residence Act)</p>	<p>Residence permit issued by and TCN entered via non-Schengen state (Section 19a (1) of the Residence Act)</p> <p>EU Blue Card granted by an EU, but non-Schengen state (Section 19a (1) of the Residence Act)</p>	<p>in the federal territory during the transfer and if the application is filed within six months of the end of the TCN's stay in the federal territory for the purpose of an intra-corporate transfer (Section 19 (6) of the Residence Act)</p> <p>Stays as intra-corporate transferee not exceeding 90 days within a 180-day period (Section 19a (1) of the Residence Act)</p> <p>The notification must be made as soon as possible (Section 19a (1) of the Residence Act)</p> <p>If the entry and residence has not been denied, the TCN may enter the federal territory at any time after the notification has been received and during the validity of the other EU member state's residence title (Section 19a (2) of the Residence Act)</p> <p>If the salary is not comparable to Germans, the requirements are not met, the documents were fraudulently acquire, falsified, or tampered with, or if the TCN had already stayed the maximum period of years in the EU, entry and residence are not to be denied later than 20 days after the Federal Office for Migration and Refugees had received the complete information about the stay (Section 19a (3) of the Residence Act)</p>
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<p>Exemption of residence title ceases (Section 19a (3) of the Residence Act)</p> <p>Residence title by another EU member state in accordance with Directive 2014/66/EU Employment as manager, specialist, or trainee employee in the host entity Intra-corporate transfer exceeds 90 days Valid work contract If necessary, assignment letter (Section 19b (2) of the Residence Act)</p>	<p>TCNs with Mobile ICT Card (Section 19b of the Residence Act)</p>	<p>Status denied</p>	<p>In case of denial, immediate ceasing of economic activity (Section 19a (3) of the Residence Act)</p> <p>Application for mobile ICT-Card filed at least 20 days prior to the beginning of the stay: residence is deemed to be permitted for up to 90 days within a 180-day period until the foreigners authority decides on the application (Section 19b (3) of the Residence Act)</p> <p>If the application was filed at the same time as the notification, it is denied (Section 19b (4) of the Residence Act)</p> <p>If the application was filed during the stay for other employment purposes or as civil servant, but not completed 20 days prior to the end of the stay, it is denied (Section 19b (4) of the Residence Act)</p> <p>If the TCN will stay longer in the federal territory than in other member states, the application is denied (Section 19b (5) of the Residence Act)</p> <p>If the maximum duration of the intra-corporate transfer has been reached, the application may be denied (Section 19b (6) of the Residence Act)</p> <p>If the application is filed within six months of the end of the TCN's last</p>
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<p>Determined by the Ordinance on the Employment of Foreigners or by intergovernmental agreement (Section 19c (1) of the Residence Act)</p> <p>Determined by the Ordinance on the Employment of Foreigners (Section 19c (2) of the Residence Act)</p> <p>Public interest in the TCN's employment, in particular a regional, economic, or labour market interest (Section 19c (3) of the Residence Act)</p>	<p>TCNs with other employment purposes (Section 19c (1) of the Residence Act)</p> <p>TCNs (Section 19c (3) of the Residence Act)</p> <p>Foreign civil servants (Section 19c (4) of the Residence Act) (Without permission of the Federal Employment Agency)</p>	<p>TCNs without qualification as skilled workers (Section 19c (1) of the Residence Act)</p> <p>TCN with a high degree of practical occupation skills (Section 19c (2) of the Residence Act)</p>	<p>stay in the federal territory for the purpose of an intra-corporate transfer, it is denied (Section 19b (6) no. 2 of the Residence Act)</p> <p>In case of any changes in the conditions of the requirements, the national host entity must inform the competent foreigners authority without delay and, as a rule within one week (Section 19b (7) of the Residence Act)</p> <p>Valid for three years; in case of a shorter duration of employment, for the duration of employment (Section 19c (4) of the Residence Act)</p> <p>Application for a permanent residence permit after three years (Section 19c (4) of the Residence Act)</p>
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<p>Completion of vocational training or higher education study in Germany or Employment in a specialist role for three consecutive years or Employed in a university position with a comparable foreign higher education degree for a minimum of two years (Section 19d (1) no. 1 of the Residence Act) Sufficient living space (Section 19d (1) no. 2 of the Residence Act) Sufficient command of the German language (Section 19d (1) no. 3 of the Residence Act)</p>	<p>TCNs</p>	<p>Whose deportation has been suspended due to their qualifications (Section 19d of the Residence Act)</p>	<p>Valid for two years (Section 19d (1a) of the Residence Act); after two years of employment transition to every employment possible (Section 19d (2) of the Residence Act)</p>
<p>Approval by the Federal Employment Agency or determined on the basis of the Ordinance on the Employment of Foreigners or by inter-governmental agreement Agreement with the host entity with information on the conditions of the voluntary service scheme (Section 19e (1) of the Residence Act)</p>	<p>Participants in European voluntary service (Section 19e of the Residence Act)</p>		<p>Valid for the duration of the European voluntary service, not exceeding one year (Section 19e of the Residence Act)</p>
<p>Secured subsistence</p>	<p>TCNs seeking employment (Section 20 of the Residence Act)</p>		<p>Residence permit may not be extended beyond the respective maximum duration (Section 20 (4) of the Residence Act)</p>
<p>German language skills commensurate with the work they seek to perform (Section 20 (1) of the Residence Act)</p>		<p>Skilled workers with vocational training qualification residing outside of Germany (Section 20 (1) of the Residence Act)</p>	<p>Valid for the duration of six months (Section 20 (1) of the Residence Act)</p>
<p>Obtaining a residence title for the purpose of employment or for a study-related EU training programme</p>		<p>TCNs with vocational training qualification already residing in Germany (Section 20 (1) of the Residence Act)</p>	<p>Valid for the duration of six months (Section 20 (2) of the Residence Act)</p>

<p>German language skills commensurate with the work they seek to perform (Section 20 (1) of the Residence Act)</p> <p>Obtaining a residence title for the purpose of employment or for a study-related EU training programme</p> <p>Equivalence of the vocational qualification has been established or the authorisation to practise the profession in the federal territory has been granted (Section 20 (3) no. 4 of the Residence Act)</p>		<p>TCNs with a university degree residing outside of Germany (Section 20 (2) of the Residence Act)</p> <p>TCNs with a university degree already residing in Germany (Section 20 (2) of the Residence Act)</p> <p>Graduates of a German university (Section 20 (3) no. 1 of the Residence Act)</p> <p>Researchers and mobile researchers (Section 20 (3) no. 2 of the Residence Act)</p> <p>Graduates of German vocational training institutions (Section 20 (3) no. 3 of the Residence Act)</p> <p>Graduates of foreign vocational training institutions (Section 20 (3) no. 4 of the Residence Act)</p>	<p>Valid for the duration of six months (Section 20 (2) of the Residence Act)</p> <p>Valid for the duration of six months (Section 20 (2) of the Residence Act)</p> <p>Valid for the duration of 18 months (Section 20 (3) no. 1 of the Residence Act)</p> <p>Valid for the duration of nine months (Section 20 (3) no. 2 of the Residence Act)</p> <p>Valid for the duration of 12 months (Section 20 (3) no. 3 of the Residence Act)</p> <p>Valid for the duration of 12 months (Section 20 (3) no. 3 of the Residence Act)</p> <p>The extension of the temporary residence permit may be denied to avoid abuse (Section 31 (2) of the Residence Act)</p>
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benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)
<p>Skilled workers: easier labour market access, accelerated approval, quicker obtaining of permanent residence permits, and easier family reunification, under certain conditions</p> <p>Benefits for EU Blue Card holders: quicker access to permanent residence permit, after two years no permission from the foreigners authority required to change job</p> <p>Highly-skilled professionals may obtain permanent residence permit upon arrival</p>	<p>If entry and residence is denied, exemption from requiring a residence title ceases to exist (Section 19a (3) of the Residence Act)</p> <p>No valid visa or residence title: criminal offence → up to one year's imprisonment or a fine of up to 3000 euros (Section 95 (1) no. 1 of the Residence Act)</p> <p>False information supplied during the application of a residence title: criminal offence → up to three year's imprisonment or a fine (Section 95 (2) no. 2 of the Residence Act)</p> <p>No valid work permit: administrative offence → fine of up to 5000 euros (Section 404 (2) no. 4 of the Social Code III)</p> <p>Working while holding a Schengen visa: criminal offence → one year's imprisonment or a fine (not national visa).(Section 95 (1a) of the Residence Act)</p> <p>Unauthorised self-employment: administrative offence → fine of up to</p>	<p>Committed negligently: administrative offence → fine (Section 98 (1) of the Residence Act)</p> <p>Committed negligently: administrative offence → fine (Section 98 (1) of the Residence Act)</p>	<p><u>EU level:</u> Directive 2021/1883/EU of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC</p> <p>Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment</p> <p>Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer</p> <p>Directive 2016/801/EU of the European Parliament and of the Council of 11 May 2016 on the Conditions of Entry and Residence of Third-Country Nationals for the Purposes of Research, Studies, Training, Voluntary Service, Pupil Exchange Schemes or Educational Projects and Au Pairing (OJ 132 of 21.5.2016, p. 21)</p>

	<p>5000 euros (Section 98 (3) no. 1 of the Residence Act)</p> <p>Exceeding total amount of permitted work trials (job-seeking residence permit): administrative offence → fine of up to 5000 euros (Section 404 (2) no. 4 of Social Code III)</p> <p>In case of TCNs, whose deportation has been suspended and who have authorisation to work, having been dismissed from the job due to one's own fault → revocation of residence permit (Section 19d (1b) of the Residence Act)</p>		<p><u>National level:</u> -</p> <p><u>Other national laws mentioned:</u> Ordinance on the Employment of Foreigners</p> <p>Social Code III</p>
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Table 4. Germany’s Investment-Based Immigration Policy: Self-Employment

themes (indicators)	dimensions	actors	characteristics	temporality
guarantee(s) (conditions of entry/stay)		Competent bodies for the planned business location Competent trade and industry authority Representative bodies for public-sector occupational groups Competent authorities regulating admission to the occupation Foreigners authority		
<p style="text-align: center;">***</p> Valid passport (Section 3 of the Residence Act) Clean criminal record No public interest in the expulsion of the TCN (Section 5 (1) no. 2 of the Residence Act) Visa application (visa fee 80 euros) (Regulation No. 2019/1155/EU) Economic interest in or regional need for the business (Section 21 (1) sentence 1, no. 1 of the Residence Act) Business is expected to have positive effects on the German economy (Section 21 (1) sentence 1, no. 2 of the Residence Act) Personal capital or a loan undertaking to realise the business idea (Section 21 (1) sentence 1, no. 3 of the Residence Act)	<p style="text-align: center;">***</p> Country nationals who must hold a visa TCNs who have successfully completed studies in Germany, TCNs holding a temporary residence permit as researcher or scientist in accordance with Sections 18c or 19c are exempt from the requirements of Section 21 (1) sentence 1, provided that their self-employment is linked to the skills acquired during the higher education studies or research activities (Section 21 (2a) of the Residence Act)	<p style="text-align: center;">***</p> Over 18 years of age (Section 21 of the Residence Act) Clean criminal record (Section 21 of the Residence Act) TCNs holding a residence permit on other grounds may engage in self-employed activities, provided they obtained a permission from the competent authorities and are not subject to mandatory conditions (possessing a temporary residence permit is required) (Section 21 (6) of the Residence Act)	<p style="text-align: center;">***</p> Visa application process can take up to several month Valid for a maximum of three years (Section 21 (4) of the Residence Act) Permanent residence permit after three years of stay, provided that the business activity has successfully been carried out, the TCN as well as his or her family is financially stable, there is no residential restriction and interest in expelling the TCN (Section 21 (4) of the Residence Act)	

<p>No language requirement according to the Residence Act (the Chamber of Commerce, however, takes it into consideration)</p> <p>Sufficient health insurance coverage prior to entering Germany</p> <p><u>Required documents:</u> Deed of association, excerpt from the commercial register, applicant's business registration with the Trade Office, comprehensive business plan</p> <p><u>Documents which may be required:</u> Curriculum Vitae, managing director's employment contract, proof of already existing business relationships in Germany and Europe, evidence of available capital, valid rental agreement</p> <p>Adequate provision for old age (Section 21 (3) of the Residence Act)</p>	<p>Freelancers are exempt from the requirements of Section 21 (1) sentence 1 of the Residence Act)</p> <p>TCNs</p> <p>Holders of a permanent residence permit are exempt from the requirements and entitled to engage in self-employed activities (IHK Region Stuttgart, 2018)</p>	<p>TCNs under exceptional leave to remain are excluded from engaging in self-employed activities</p> <p>Older than 45 years of age (Section 21 (3) of the Residence Act)</p>	<p>Naturalisation after six to eight years of uninterrupted residence in Germany</p>
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benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)
<p>The right to stay for a maximum of three years</p> <p>Accelerated access to a permanent residence permit and citizenship</p> <p>Benefits for researchers and scientists</p>	<p>Unauthorised self-employment: administrative offence → fine of up to 5000 euros (Section 98 (3) no. 1 of the Residence Act)</p> <p>Engaging in self-employment on a Schengen visa: criminal offence → one year's imprisonment or a fine (Section 95 (1a) of the Residence Act)</p> <p>Employing a TCN without valid residence title: administrative offence → fine of up to 500,000 euros (Section 98 (2a) no. 1 and (5) of the Residence Act)</p> <p>Committed repeatedly: criminal offence → up to three year's imprisonment or a fine (Section 11 (1) no. 2 and (2) of the Act to Combat Undeclared Work and Unlawful Employment)</p> <p>Committed once, but more than five TCNs are employed illegally: criminal offence → up to three year's imprisonment or a fine (Section 11 (1) no. 1 of the Act to Combat Undeclared Work and Unlawful Employment)</p> <p>Significantly worse working conditions are enforced: criminal offence → up to five year's imprisonment (Section 10 (1) and (2) of the Act to Combat</p>	<p style="text-align: center;">-</p>	<p><u>EU level:</u> Directive 2009/50/EC of the European Parliament and of the Council of 25 May 2016 on the Conditions of Entry and Residence of Third-Country Nationals for the Purpose of Highly Qualified Employment of 2012</p> <p><u>National level:</u> -</p> <p><u>Other national laws mentioned:</u> Ordinance Governing Residence</p>

	<p>Undeclared Work and Unlawful Employment)</p> <p>Employing a person without residence title and under 18 years of age: criminal offence → up to one year's imprisonment or a fine (Section 11 (1) no. 3 of the Act to Combat Undeclared Work and Unlawful Employment)</p> <p>In cases of significant self-interest: imprisonment penalty can be extended to up to three years (Section 11 (2) of the Act to Combat Undeclared Work and Unlawful Employment)</p> <p>Collaborating with a business person or company employing workers illegally: administrative offence: fine of up to 500,000 euros (Section 404 (1) no. 1 and (3) of Social Code III)</p>		
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Table 5. Germany's Student Mobility Policy

themes (indicators)	dimensions	actors	characteristics	temporality
guarantee(s) (conditions of entry/stay)	State, state-recognised or comparable educational institution Foreigners authority Federal Office for Migration and Refugees Competent authorities of other EU member states Federal Employment Agency			
<p style="text-align: center;">***</p> Valid passport Clean criminal record No public interest in expulsion of the TCN (Section 5 (1) no. 2 of the Residence Act) Visa application (visa fee 80 euros) (Regulation No. 2019/1155/EU) Health insurance Admission approval of the educational institution (Section 16b (1) of the Residence Act)	<p>The host educational institution may be consulted to find out whether the purpose of residence is still achievable (Section 16b (2) of the Residence Act)</p> <p style="text-align: center;">***</p> Country nationals who must hold a visa TCNs pursuing full- or part-time studies (Section 16b (1) of the Residence Act)	<p style="text-align: center;">***</p> Under 30 years of age private or statutory health insurance Over 30 years of age private health insurance	<p style="text-align: center;">***</p> Valid for at least one year, not exceeding two years (Section 16b (2) of the Residence Act)	

<p>Proof of language proficiency is necessary only if it has not been assessed beforehand or if it is not intended to be gained during the duration of the course (Section 16b (1) of the Residence Act): However, the Federal Foreign Office specifies that proof of German language proficiency is required if the studies are conducted entirely in German; the DAAD allows exceptions for international degree programmes and certain postgraduate programmes if they are taught in English → non-native English speakers proof of English proficiency (Federal Office for Migration and Refugees, 2020)</p>	<p>TCNs participating in measures to prepare for studies (language course or preparatory course prior to the studies) (Section 16b (1) of the Residence Act)</p>		<p>Valid for at least two years if the TCN takes part in Union or multilateral programmes or if the TCN is covered by an agreement between two or more higher education institutions (Section 16b (2) of the Residence Act) If the study course takes less than two years, the permit is granted only for the duration of the course of study (Section 16b (2) of the Residence Act)</p> <p>Extension: purpose of residence has not yet been achieved and is achievable within a reasonable period of time (Section 16b (2) of the Residence Act)</p> <p>TCNs are allowed to take up employment of up to 120 days or 240 half-days per year (Section 16b (3) of the Residence Act)</p>
<p>Required to have pursued studies in another EU member state for at least two years and to participate in a Union or multilateral programme or an agreement between two or more higher educational institutions (Section 16b (7) of the Residence Act)</p>	<p>TCNs</p>	<p>Having been granted international protection status in another EU member state (Section 16b (7) of the Residence Act)</p>	<p>Valid for the duration of the studies Allowed to take up employment of up to 120 days or 240 half-days per year No entitlement to a permanent residence permit after five years (Section 16b (7) of the Residence Act)</p>
<p>Residence title issued by another EU member state in accordance with Directive 2016/801/EU Valid passport Secured subsistence Notification of the Federal Office for Migration and Refugees and the competent authority</p>	<p>Mobile students (Section 16c of the Residence Act)</p>		<p>Stay of less than 360 days</p> <p>Submission of notification in due time: entry at any time (Section 16c (1), (2), and (4) of the Residence Act)</p>

<p>of the other member state by the host educational institution in the FRG Participation in an Union or multilateral programme or being covered by an agreement between two or more higher education institutions (Section 16c (1) no. 1 to 5 of the Residence Act)</p> <p>Approval by the Federal Employment Agency (Section 16e (1) of the Residence Act)</p> <p>Training agreement which contains the working conditions and the legal relationship between the TCN and the host entity (Section 16e (1) no. 2 of the Residence Act)</p> <p>Evidence of a higher education degree within two years preceding the date of application or of pursuing a course of study that leads to a higher education degree (Section 16e (1) no. 3)</p> <p>Approval by the host entity to bear the cost for the TCN if the TCN must be deported or stays unlawfully in Germany</p>	<p>TCNs participating in study-related EU training programmes (Section 16e of the Residence Act)</p> <p>Doctoral students (depending on the means by which the applicant plans to support themselves either labour migration policy Section researcher or EU Blue Card holders or study mobility in case of working half-time or holding a scholarship)</p>		<p>In case of revocation of the residence permit, TCNs must immediately cease their studies (Section 16c (3) of the Residence Act)</p> <p>Valid for the agreed duration of training, not exceeding six months (Section 16e (2) of the Residence Act)</p> <p>During the first year of residence for preparatory measures and while participating in a preparatory company traineeships, the TCN is only allowed to work during holidays (Section 16b (3) and (5) of the Residence Act)</p>
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<p>“Feststellungsprüfung” (PO-FeP-Hochschule)</p>	<p>TCNs who are not considered eligible to enter a German higher education institution (PO-FeP-Hochschule)</p>		<p>After graduation: right to stay for up to 18 months with the purpose of seeking employment that aligns with their qualifications (Section 20 (3) no. 1 of the Residence Act)</p>
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benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)
<p>The right to stay for the duration of the studies or the programme</p> <p>Similar rights and obligations as German students</p> <p>Allowed to take up employment and student jobs (Section 16b (3) of the Residence Act): particular work categories, including mandatory internships or student assistant jobs, are exempt from the 120-day limitation</p> <p>Transition to a temporary residence permit for quality vocational training, employment as skilled worker, employment in a job requiring a high degree of practical occupational skills (Section 16b of the Residence Act) or a temporary residence permit for seeking employment</p>	<p>International student's progress in their studies insufficient: revocation of residence permit (Section 52 (3) no. 2 of the Residence Act)</p> <p>No longer meeting the requirements: revocation of residence permit (Section 52 (3) no. 3 of the Residence Act)</p> <p>No valid passport/ID: one year's imprisonment or a fine of up to 3000 euros (Section 95 (1) no. 1 and Section 98 (5) of the Residence Act)</p> <p>False information supplied during the application of a residence title: criminal offence → up to three year's imprisonment or a fine (Section 95 (2) no. 2 of the Residence Act)</p> <p>Exceeding the total amount of working hours: administrative offence → fine of up to 5000 euros (Section 404 (2) no. 4 of the Social Code III)</p> <p>Unauthorised self-employment: administrative offence → fine of up to 5000 euros (Section 98 (3) no. 1 of the Residence Act)</p>	<p>Intended purpose of stay cannot be fulfilled due to issues on behalf of the host institution: duration of nine months to find another educational institution (Section 16b (6) of the Residence Act)</p> <p>Committed negligently: administrative offence → fine (Section 98 (1) of the Residence Act)</p>	<p><u>EU level:</u> Directive 2016/801/EU of the European Parliament and of the Council of 11 May 2016 on the Conditions of Entry and Residence of Third-Country Nationals for the Purposes of Research, Studies, Training, Voluntary Service, Pupil Exchange Schemes or Educational Projects and Au Pairing (OJ 132 of 21.5.2016, p. 21)</p> <p><u>National level:</u> -</p> <p><u>Other national laws mentioned:</u> Social Code III Landeshochschulgebührengesetz of Baden-Württemberg Saxony Higher Education Act Verordnung über die Feststellungsprüfung zur Aufnahme eines Hochschulstudiums [Feststellungsprüfungsordnung Hochschule – PO-FeP-Hochschule]</p>

Table 6. Germany's Family Reunification Policy

themes (indicators)	dimensions	actors	characteristics	temporality
guarantee(s) (conditions of entry/stay)		Sponsor: 1. EU Citizen (Section 3 of the EU Freedom of Movement Act)	<u>Excluded:</u> Persons in sham or forced marriages (Section 27 (1) nos. 1 and 2 of the Residence Act), TCNs wanting to join a sponsor who relies on social welfare benefits in accordance with Social Code II or XII (Section 27 (2) of the Residence Act), TCNs who pose a threat to the free democratic basic order or the security of the FRG, TCN who was a leader of an organisation that has been definitively banned due to its purposes or activities violating criminal law, TCN who is involved in violent activities in the pursuit of political or religious objectives, or who incites hatred against segments of the population, such as members of certain ethnic groups or religions (Section 27 (3a) nos. 1 to 4 of the Residence Act) More than one spouse in case of polygamous marriages (Section 30 (4) of the Residence Act)	

<p>Residing in Germany for work (Section 3 of the Freedom of Movement Act)</p> <p>Adequate health insurance and secured subsistence (Section 4 of the EU Freedom of Movement Act)</p> <p>Main place of residence is the Federal Republic of Germany (Section 28 (1) of the Residence Act) At least 18 years of age (Section 30 (1) no. 1 of the Residence Act)</p> <p>Main place of residence is the Federal Republic of Germany (Section 28 (1) of the Residence Act)</p> <p>Sponsor must have one of the following residence permits: a permanent residence permit, EU long-term residence permit, temporary residence permit, EU Blue Card, ICT Card, mobile ICT Card or a temporary residence permit as mobile researcher The sponsor must offer sufficient living space (Section 29 (1) sentence 1 of the Residence Act): sufficient living space, secured subsistence except for a health insurance waived for EU Blue Card holders if the family unit already existed prior to the stay in Germany in another EU member state. Under these conditions the sponsor may also rely on Book II or XII of the Social Code (Section 29 (1) sentence 2 of the Residence Act)</p>	<p>1a: EU citizen (Section 3 of the EU Freedom of Movement Act)</p> <p>1b: EU citizen (Section 4 of the EU Freedom of Movement Act)</p> <p>2. German national (Section 28 (1) of the Residence Act)</p> <p>2a: Minor, unmarried German national</p> <p>3. TCN (Section 29 of the Residence Act)</p>	<p>Gainfully employed (Section 3 of the EU Freedom of Movement Act)</p> <p>Non-gainfully employed (in case of student, only spouse/life partner or children may join them) (Section 4 of the EU Freedom of Movement Act)</p> <p>At least 18 years of age</p>	
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<p>Marriage has already existed before fleeing (Section 36a (1) and (3) no. 1 of the Residence Act) It has not been possible to live together as a family unit and/or the TCN is seriously ill, in need of care or severely disabled which must be proven by a qualified medical certificate (Section 36a (2) of the Residence Act)</p> <p>No parent with the right for custody resides in the FRG (Section 36a of the Residence Act) The requirement for secured subsistence and sufficient living space does not apply (Section 36a (1) of the Residence Act) It has not been possible for a long time to live together as a family unit and/or the child or the parents of a minor unmarried child are seriously ill, in need of care or severely disabled which must be proven by a qualified medical certificate (Section 36a (2) of the Residence Act)</p>	<p>3a: TCNs being granted subsidiary protection (Section 36a (1) of the Residence Act) Quota of 1000 national visas every month (Section 36a (1) and (2) of the Residence Act) TCNs, who have been incontestably sentenced to a prison term, have applied for a border certificate, will not be granted a residence title and whose temporary residence permit will not be extended, are excluded (Section 36a (3) nos. 1, 2a, b, d, 3, and 4 of the Residence Act)</p> <p>3b: Minor TCN being granted subsidiary protection (Section 36a of the Residence Act) Quota of 1000 national visas every month (Section 36a (1) and (2) of the Residence Act) TCNs, who have been incontestably sentenced to a prison term or youth custody, have applied for a border certificate, will not be granted a residence title and whose temporary residence permit will not be extended, are excluded (Section 36a (3) nos. 1 to 4 of the Residence Act)</p> <p><u>Applicant:</u></p> <ol style="list-style-type: none"> Spouse/life partner of an EU citizen 	<p>Being granted subsidiary protection (Section 36a (1) of the Residence Act)</p> <p>Being granted subsidiary protection (Section 36a (1) of the Residence Act) TCNs</p>	<p>Right of residence upon death of the EU citizen, provided they resided in the federal territory for at least one year prior to the death, or after divorce or annulment under certain</p>
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<p>Accompany an EU citizen or subsequently immigrate to join an EU citizen (Section 3 (1) of the Freedom of Movement Act)</p> <p>Adequate health insurance and secured subsistence</p> <p>At least 18 years of age (Section 28 (1) of the Residence Act, cf. Section 30 (1) no. 1 of the Residence Act)</p> <p>Basic command of the German language (Section 28 (1) of the Residence Act, cf. Section 30 (1) no. 2 of the Residence Act)</p> <p>In most cases exempt from providing evidence of secured subsistence (Section 28 (1) of the Residence Act)</p> <p>Minimum age of at least 18 years of both spouses (Section 30 (1) no. 1 of the Residence Act)</p> <p>Basic command of the German language (Section 30 (1) no. 2 of the Residence Act)</p> <p>Secured subsistence</p> <p>Sufficient living space</p> <p>Sponsor must hold one of the following residence titles: a permanent residence permit, an EU long-term residence permit, an EU Blue Card, an ICT Card, a mobile ICT card, a residence permit as researcher or mobile researcher, a long-term residence permit of another EU member state and the marriage had already existed in the EU state that granted the</p>	<p>1a: Spouse/life partner of an gainfully employed EU citizen</p> <p>1b: Spouse/life partner of an non-gainfully employed EU citizen</p> <p>2. Spouse/life partner of a German national</p> <p>3. Spouse/life partner of a TCN</p>		<p>circumstances (Section 3 (3) and (5) of the Freedom of Movement Act)</p> <p>Permanent residence permit after three years, provided the TCN holds a temporary residence permit for three years, has sufficient command of the German language, the family unit with the German national continues to exist in the FRG, and there is no public interest in the expulsion of the TCN (Section 28 (2) of the Residence Act)</p> <p>Extension: as long as the marriage exists (Section 28 (2) of the Residence Act)</p> <p>Valid for no longer than the duration of validity of the TCN's residence permit who will be joined if sponsor holds a residence permit as researcher, short-term mobility researcher or mobile researcher, or has a EU long-term residence permit, an EU Blue Card, an ICT-Card, a mobile ICT-Card (Section 27 (4) of the Residence Act)</p> <p>All other cases: Valid for an initial period of at least one year (Section 27 (4) of the Residence Act)</p>
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<p>residence permit, entitled to asylum or been granted subsidiary protection, held a temporary residence permit for two years, or a residence permit on exceptional reasons or on ground of educational, employment, humanitarian or political, familial purposes, or for returnees or former Germans, provided the marriage has already existed prior to the issuance and the duration of stay does not exceed one year (Section 30 (1) no. 3 of the Residence Act)</p> <p>Exempt from secured subsistence and sufficient living space, provided the application was filed within three months after the sponsor's residence title was granted (Section 29 (2) of the Residence Act)</p> <p>No residence title required if marriage has already existed in the other EU member state (Section 30 (5) of the Residence Act)</p> <p>Residing in the federal territory and attaining an educational institution (Section 3 (5) of the Freedom of Movement Act)</p> <p>Exempt from providing evidence of a secured subsistence (Section 28 (1) of the Residence Act)</p>	<p>3a: Spouse/life partner of a TCN residing on certain humanitarian or political grounds (Section 29 (2) of the Residence Act)</p> <p>3b: Spouse/life partner of a TCN residing as short-term mobility researcher (Section 30 (5) of the Residence Act)</p> <p>4. Minor, unmarried child of an EU citizen</p> <p>5. Minor, unmarried child of a German national</p>		<p>Extension: as long as the marriage exists (Section 30 (3) of the Residence Act)</p> <p>In case of death of the sponsor, the temporary residence permit will be extended for one year</p> <p>In case of divorce, the temporary residence permit will be extended for one year, provided the marriage lasted for at least three years in the FRG or in case of death of the sponsor (Section 31 (1) of the Residence Act)</p> <p>In case of an EU Blue Card holder, two years in the FRG and one year in the other EU member state (Section 31 (1a) of the Residence Act)</p> <p>In case of exceptional hardship, the time-related requirements may be waived (Section 31 (2) of the Residence Act)</p> <p>Upon the death of an EU citizen or if the EU citizen leaves the federal territory: right of residence until the child completes their studies (Section 3 (4) of the Freedom of Movement Act)</p> <p>Permanent residence permit after three years, provided the TCN holds a temporary residence permit for three years, has sufficient command of the German language, the family unit with the German national continues to exist in the FRG, and there is no public</p>
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<p>The parents or one parent holds one of the following residence titles: a temporary residence permit for other reasons, a temporary residence permit for educational or employment reasons (Section 32 (1) no. 1 of the Residence Act), a temporary residence permit for the subsequent immigration to join a German national or of spouses (section 32 (1) no. 3), or their parents or parent is entitled to asylum, is granted subsidiary protection (Section 32 (1) no. 2), or obtains the independent right of residence for spouses (Section 32 (1) no. 3 of the Residence Act), an EU Blue Card, an ICT Card or a mobile ICT Card (Section 32 (1) no. 5 of the Residence Act), a permanent residence permit (Section 32 (1) no. 6 of the Residence Act), an EU long-term residence permit (Section 32 (1) no. 7 of the Residence Act)</p> <p>Required to be able to speak German or if it appears that they will integrate into the German society smoothly (Section 32 (2) of the Residence Act)</p> <p>Minor, unmarried child does not need a residence title if the parent resides in the FRG as researcher on short-term mobility, if there is proof that the child belongs to the parent and had already resided with the parent in the</p>	<p>6. Minor, unmarried child of TCN (Section 32 of the Residence Act)</p>	<p>Minor, unmarried child of 16 years or older and who has not moved with their parents (Section 32 (2) of the Residence Act)</p>	<p>interest in the expulsion of the TCN (Section 28 (2) of the Residence Act)</p> <p>Extension: as long as the family unit exists (Section 28 (2) of the Residence Act)</p> <p>Extension: as long as a parent with custody holds a temporary residence permit, permanent residence permit, EU long-term residence permit and lives with the said child, or if the child had a right of return (Section 34 (1) of the Residence Act)</p> <p>When the child reaches the age of 18, i.e. when they come of age in Germany, the temporary residence permit granted becomes an independent right of residence (Section 34 (2) of the Residence Act). This also applies if a permanent residence permit, an EU long-term residence permit, or the right of return has been granted (Section 34 (2) of the Residence Act)</p> <p>Extension: as long as the conditions for granting a permanent residence permit or an EU long-term residence permit have not been met yet (Section 34 (3) of the Residence Act)</p>
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<p>other EU member state (Section 32 (5) of the Residence Act)</p> <p>Exempt from secured subsistence and sufficient living space (Section 29 (2) of the Residence Act)</p> <p>Exempt from providing evidence of a secured subsistence (Section 28 (1) of the Residence Act)</p> <p>No parent with the right of custody resides in the FRG (Section 36 (1) of the Residence Act)</p> <p>Exceptional hardship (Section 36 (2) of the Residence Act)</p>	<p>6a: Minor, unmarried child of a TCN residing on certain humanitarian or political grounds (Section 29 (2) of the Residence Act)</p> <p>7. TCN parent of a minor German national</p> <p>8. TCN Parent of a minor TCN (Section 36 (1) of the Residence Act)</p> <p>9. Other family members (Section 36 (2) of the Residence Act)</p>	<p>Minor TCN who has been entitled to asylum, refugee status, obtains a permanent residence permit according to Section 26 (3) or (4) of the Residence Act (Section 36 (1) of the Residence Act)</p>	<p>Extension: as long as the family unit exists (Section 28 (2) of the Residence Act)</p> <p>Permanent residence permit after three years, provided the TCN holds a temporary residence permit for three years, has sufficient command of the German language, the family unit with the German national continues to exist in the FRG, and there is no public interest in the expulsion of the TCN (Section 28 (2) of the Residence Act)</p> <p>Adult family members: extension as long as the marriage exists (Section 36 (2) of the Residence Act, cf. Section 30 (3) of the Residence Act)</p>
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<p>Having held a temporary residence permit for at least five years when reaching the age of 16 or out of age and having held a temporary residence permit for at least five years or</p>	<p>Minor TCNs (Section 35 of the Residence Act) Excluded:</p>	<p>On probation or the term of youth custody is suspended (Section 35 (3) of the Residence Act)</p>	<p>Independent right of residence applies (Section 36 (2) of the Residence Act, cf. Section 31 of the Residence Act)</p> <p>Minor family members: extension: as long as a parent with custody holds a temporary residence permit, permanent residence permit, EU long-term residence permit and lives with the said child, or if the child had a right of return (Section 36 (2) of the Residence Act, cf. Section 34 (1) of the Residence Act)</p> <p>When the child reaches the age of 18, i.e. when they come of age in Germany, the temporary residence permit granted becomes an independent right of residence (Section 36 (2) of the Residence Act, cf. Section 34 (2) of the Residence Act). This also applies if a permanent residence permit, an EU long-term residence permit, or the right of return has been granted (Section 36 (2) of the Residence Act, cf. Section 34 (2) of the Residence Act)</p> <p>Extension: as long as the conditions for granting a permanent residence permit or an EU long-term residence permit have not been met yet (Section 36 (2) of the Residence Act, cf. Section 34 (3) of the Residence Act)</p> <p>Temporary residence permit is extended until the end of the probationary period (Section 35 (3) of the Residence Act)</p>
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<p>sufficient command of the German language secured subsistence or being in education or training (Section 35 (1) of the Residence Act) Exemption for physically or mentally ill or impaired TCNs (Section 35 (4) of the Residence Act)</p> <p>At least one parent with custody has a temporary residence permit, a permanent residence permit or an EU long-term residence permit (Section 33 of the Residence Act)</p>	<p>Minor TCNs in whom the public has an interest in expulsion TCNs having been sentenced to youth custody of at least six months or a prison term of at least three months or a fine of at least 90 daily rates TCNs who rely on benefits under Book Two or Book Twelve of the Social Code or juvenile welfare under Book Eight of the Social Code, provided they are not in education or training (Section 35 (3) of the Residence Act)</p>	<p>Children of TCNs born in Germany (Section 33 of the Residence Act)</p>	<p>Independent, permanent right to stay (Section 35 of the Residence Act) Periods of school attendance outside of the FRG may not be counted towards the required duration (Section 35 (2) of the Residence Act)</p> <p>If the parents reside in Germany on the basis of a national visa or a visa waiver programme, the child born is entitled to reside in the country for the duration of the visa-free stay (Section 33 of the Residence Act).</p>
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<p align="center">benefits (rights/privileges of entry/stay)</p>	<p align="center">penalty/ties (penalising clause/article for IFs)</p>	<p align="center">forgiveness (forgiving clause/article)</p>	<p align="center">referrals (connecting with other mobility policies)</p>
<p>Right to work (Section 4a of the Residence Act)</p> <p>Accelerated access to permanent residence permit and naturalisation for TCNs joining a German family member (Section 9 (1) of the Nationality Act)</p> <p>Independent right for residence of the spouse (Section 31 (1) of the Residence Act): temporary residence permit will be extended for one year, if the marriage had existed for at least three years in the FRG or the foreign sponsor died, while both spouses resided in the FRG, and the sponsor held a temporary residence permit, a permanent residence permit (Section 31 (1) of the Residence Act)</p> <p>In case of spouses of EU Blue Card holders, the marriage must have existed for at least one year in the other EU member state and continued for at least two years in the FRG (Section 31 (1a) of the Residence Act)</p> <p>Independent right for residence of children (Section 35 of the Residence Act): children may be granted a permanent residence permit if they have been in possession of a temporary residence permit for five years when they reach the age of 16 (Section 35 (1) of the Residence Act). The same applies if the TCN (the child?) came out of age and has been in possession of a temporary residence permit for five years, has a sufficient command of the</p>	<p>False information supplied during the application of a residence title (themselves or others): criminal offence → up to three year's imprisonment or a fine (Section 95 (2) no. 2 of the Residence Act)</p> <p>Joining family members who reside on grounds of humanitarian reasons, a (mobile) ICT-Card or an EU Blue Card: revocation of residence permit if family member loses right to stay (Section 52 (1), (2a), (2b) of the Residence Act)</p> <p>TCNs who have an independent right to stay are exempt (Section 52 (1) of the Residence Act)</p>	<p>Committed negligently: administrative offence → fine (Section 98 (1) of the Residence Act)</p> <p>Except the sponsor could not apply for an extension for no reasons of their own fault (Section 31 (1) of the Residence Act)</p> <p>Exemption from time-related requirement: Survivors of domestic violence or other criminal offences, or in case of threat to the life and health of a child (Section 31 (2) of the Residence Act)</p>	<p><u>EU level:</u> Freedom of Movement Act/EU of 30 July 2004</p> <p><u>National level:</u> Basic Law Nationality Act</p> <p><u>Other national laws mentioned:</u> Social Code II Social Code XII Criminal Code</p>

<p>German language, a secured livelihood or is in education or training (Section 35 (1) of the Residence Act). Requirement of sufficient command of the German language, a secured livelihood or being in education or training, and public interest of expelling the TCN may be waived, in case of physical or mental illness or disability (Section 35 (4) of the Residence Act)</p>			
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Annex 2 – Guide used for policy content analysis

themes (indicators)	dimensions	actors	characteristics	temporality
guarantee(s) (conditions of entry/stay)				

benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)

Determining State’s hidden suppositions (by themes):

- 1) Why the State requires a set of conditions for the entry or stay of a Third Country National (TCN) in its territory?
- 2) Why does the State provide specific set of rights/privileges when entry/stay conditions are met?
- 3) Why does the State penalize specific actor(s) when one or more conditions are not met?
- 4) Why does the State provide exemptions? Or why does it give no exemptions?
- 5) Why does the State connect its two or more mobility policies to each other?

Determining State’s hidden suppositions (by dimensions):

- 6) Why does the State focus on one or more actors in its mobility policies?
- 7) Why does the State privilege or prioritize actors with a specific set of characteristics?
- 8) Why does the State favour a specific temporality over the others? Why does it limit to a specific duration a TCN’s stay in its territory?

Concluding questions (considering the answers to the questions above):

9) What does the State consider as “acceptable” or “unacceptable” human behaviour in the context of a specific mobility policy?

10) To what extent the State considers or not human behaviour in its mobility policies?