

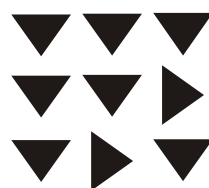
# The Impacts of Restrictions and Entitlements on the Integration of Family Migrants



National  
Report  
Germany

Doris Lüken-Klaßen  
Friedrich Heckmann

european forum for migration studies (efms)  
Institute at the University of Bamberg  
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european  
forum for  
migration studies  
(efms) ®

## IMPACiM Country Report:

### Germany

Doris Lücken-Klaßen: [doris.lueken-klassen@uni-bamberg.de](mailto:doris.lueken-klassen@uni-bamberg.de)

Professor Friedrich Heckmann: [friedrich.heckmann@uni-bamberg.de](mailto:friedrich.heckmann@uni-bamberg.de)

european forum for migration studies (efms),  
Institute at the University of Bamberg

Project website: [www.compas.ox.ac.uk/research/welfare/impacim](http://www.compas.ox.ac.uk/research/welfare/impacim)

A report prepared as part of the IMPACiM project.

**Note: Legislation in the area of migrants' entitlements is fast moving; this report presents regulations and entitlements in place at the end of December 2012, as well as reflections on those collected during qualitative research carried out until July 2013.**

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# Table of Contents

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## Contents

<b>I.</b>	<b>Introduction .....</b>	<b>I</b>
<b>I</b>	<b>Contexts.....</b>	<b>3</b>
I.1	Types of family migration.....	3
I.2	The German welfare system and German family migration policies .....	4
I.2.1	The basic rationale for migrant integration: the opening of the welfare state to immigrants.....	4
I.2.2	Main actors in the area of family migration policies .....	5
<b>2</b>	<b>Conditions of stay and rationales: German legislation on family migration</b>	<b>8</b>
2.1	Legislation on family migration in Germany.....	8
2.2	Legal basis and practical procedures .....	9
2.2.1	Legal basis.....	9
2.2.2	Practical procedure.....	11
2.3	Conditions for entry and residence.....	11
2.3.1	Regulations for family reunification with spouses and partners .....	12
2.3.2	Regulations for family reunification of children and parents .....	17
2.3.3	Regulations for the migration of family members outside the nuclear family .	20
2.4	Conditions for an autonomous residence status.....	21
2.4.1	Conditions for an independent residence permit.....	21
2.4.2	Conditions for a permanent settlement permit.....	22
2.5	Entitlements and restrictions facing non-EU family migrants.....	25
2.5.1	Education.....	26
2.5.2	Employment.....	30
2.5.3	Social welfare benefits .....	33
2.5.4	Health	39
2.5.5	Housing	43
2.5.6	Political and civic participation .....	46
2.6	Rationales for entitlements and restrictions .....	50
2.7	Summary .....	55

<b>3</b>	<b>Quantitative evidence: family migration and the integration of family migrants in Germany.....</b>	<b>57</b>
3.1	Data sources.....	57
3.1.1	Demographic population data.....	57
3.1.2	Survey and publication data.....	59
3.2	Trends of family migration in Germany.....	63
3.2.1	The development of family migration to Germany.....	64
3.2.2	The composition of family migrants.....	65
3.3	The integration of family migrants in Germany.....	71
3.3.1	Political and civic participation.....	71
3.3.2	Employment.....	73
3.3.3	Education.....	76
3.3.4	Language knowledge.....	78
3.3.5	Integration courses.....	82
3.4	Summary and conclusion.....	85
<b>4</b>	<b>Qualitative findings: the integration of family migrants.....</b>	<b>88</b>
4.1	Background information and methods.....	88
4.2	Restrictions and rights for family migrants in different areas of integration.....	90
4.2.1	Access to labour market and employment.....	92
4.2.2	Access to education.....	93
4.2.3	Access to social assistance.....	95
4.2.4	Access to the health system.....	96
4.3	Impact on special groups: connecting continuation of marriage and residence status.....	96
4.4	Locally specific structures.....	98
4.5	Conclusion.....	99
<b>5</b>	<b>Summary and conclusion .....</b>	<b>102</b>
<b>6</b>	<b>Appendix: Organisations represented by the experts interviewed and by the participants of the round table .....</b>	<b>105</b>
<b>7</b>	<b>Bibliography .....</b>	<b>107</b>

## List of tables and figures

---

Table 1: ICS respondents according top five countries of origin and migration status .....	61
Figure 1: Immigration of third country nationals and their purpose of residence (2011) .....	63
Figure 2: Visas for family migration (1998 to 2011) .....	64
Figure 3: Family migration in 2011, by family member .....	66
Figure 4: Family migration in 2011, by nationality.....	67
Table 2: Family migration in 2010 and 2011, by age groups.....	70
Figure 5: Reasons against voting by migration status .....	72
Figure 6: Economic situation by migration status .....	74
Figure 7: Education by migration status .....	78
Figure 8: Assessed language knowledge by migration status.....	81

# 1. Introduction

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Family-related migration is a crucial immigration channel to Europe. In Western European countries, family migration was already substantial during the period of labour recruitment, but after the oil crisis in 1973 and the following halt in recruitment, family reunion has occurred on a large scale and has become a major source of immigration. Thus, family migrants' immigration as well as their integration is of concern for European societies.

Family migrants' integration depends, on the one hand, on the actions and efforts of migrants themselves; on the other hand, it depends on the legal, economic and social conditions they meet in the new society. The European project "The Impact of Restrictions and Entitlements on the Integration of Family Migrants" (IMPACIM) focuses on the second aspect, which notably deals with legal rights and restrictions that family migrants meet upon entering the new country and enable or hamper their (post-entry) admission to society.<sup>1</sup> It further explores the political rationales for these patterns as well as their impact on migrants' economic, social, cultural and political integration. The focus is on non-EU family migrants, i.e. on third-country nationals (TCN) whose permission of stay derives from their status as family migrant. Geographically, the project covers four EU member states with differing migration histories and integration philosophies: Germany, the Netherlands, Spain and the United Kingdom.

This report explores and summarizes the relevant findings on family-related migration to Germany and the integration of family migrants in German society.

In the first part, the *Contexts* of family migration in Germany are outlined. Secondly, the legal conditions of entry and stay of family migrants as well as their political rationales are drawn out in the chapter *Conditions of stay and rationales: German legislation on family migration*, focusing on restrictions and entitlements that family migrants encounter regarding education, employment, social welfare benefits, health, housing, as well as political and civic participation (based on Lüken-Klaßen 2013b).

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<sup>1</sup> The IMPACIM project is funded by the EU fund for the Integration of third-country nationals, commencing on 31 December 2011 and lasting for eighteen months. It is in the responsibility of the European forum for migration studies (efms) at the University of Bamberg, the Erasmus University in Rotterdam, the Complutense University in Madrid and the Centre on Migration, Policy and Society (COMPAS) in Oxford.

Based on quantitative data analyses, we then report on trends of family migration as well as the integration of family migrants in Germany (see chapter *Quantitative evidence: family migration and the integration of migrants in Germany*; based on Lüken-Klaßen 2013a). Afterwards, we explore, based on expert judgements, the effects of different rules and regulations for TCN family migrants on their integration (based on Heckmann 2013). The reports ends with a summary and conclusion of the issues discussed.

# 1 Contexts

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Family migration has become *the* dominant mode of legal entry into European Union states in general, and Germany in particular (Heckmann, Schnapper 2003; Kraler 2010). According to the German Central Aliens Register (Ausländerzentralregister, AZR), 54,865 residence permits were granted for family reasons in 2010; nearly a quarter (23.3%) of the residence permits granted in that year. Thus, family migration was the main reason for receiving a residence permit in 2010 (Bundesministerium des Innern 2012b, p. 36).<sup>2</sup>

## 1.1 Types of family migration

But what exactly is meant by family migration? The term ‘family migration’ in the European context generally refers to the migration of members of a ‘family’ as defined by the state of destination. Predominantly, states allow the migration of members of the nuclear family – but not exclusively, e.g. parents of a primary migrant may be allowed to immigrate as well. Though migration biographies are manifold and the data available in Europe regarding family migration is scarce, one can identify distinct categories of family migrants. According to Kofman, there are three basic types of family migration in the European context (Kofman 2004, pp. 245–247).

- First, there is family reunification in which members of the nuclear family join the primary migrant already residing in the country of destination.
- Second, there is migration for the purpose of family formation or marriage migration. On the one hand, there are permanent residents or citizens who bring in a partner they have met during a stay abroad for purposes of work, study or holiday. On the other hand, it includes “second and subsequent generations of children of migrant origin (citizens and non-citizens) who bring in a fiancé(e)/spouse from their parents’ homeland or diasporic space” (Kofman 2004, p. 246).

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<sup>2</sup> The other quantitatively important reason for getting the residence permit in 2010 was for studies, including academic studies, school attendance and language classes (19.9%), and employment (12.6%) (Bundesministerium des Innern 2012b, p. 36).



- There is a third category of family migration where the entire family migrates simultaneously. Migrants of this category are often only allowed in terms of long-term residence permits, though exceptions are made for the highly skilled. Though migrants of this category currently are not very common in European states, Kofman expects it to become more important, as the demand for skilled labour increases (Kofman 2004, p. 247).

As will be shown, the first two categories are the most important groups of family migration in Germany. For the most part, family migration to Germany takes place in order to reunify an existing nuclear family. This is also reflected in the terminology: German legislation generally uses the terminology 'subsequent immigration of family members' (*Familiennachzug*). Yet, despite this wording, family members do not have to immigrate separately from abroad, but can also immigrate together (27.1.1 VV AufenthG). Thus, all three categories of family migration defined by Kofman are covered by German law. The most common mode, however, is that of family reunification.

In this category, by far most of the subsequently immigrating family migrants are spouses: in 2010, half of the residence permits for family reasons were issued to wives joining their husbands (49.3%); about a fifth of the permits were issued to husbands joining their wives (19.8%). Children joining their parents make up 23.6% of the family migrants; migrating parents joining their children make up 6.7%. The share of other dependents is only 0.6% (Bundesministerium des Innern 2012b, p. 118).

## 1.2 The German welfare system and German family migration policies

### 1.2.1 The basic rationale for migrant integration: the opening of the welfare state to immigrants

The German concept of the welfare state provides the most basic rationale for migrant integration, including family migrant integration. This welfare state concept is rooted in the Bismarckian policy of binding the working classes to state and society by creating institutions to protect them from the basic risks of life: unemployment, health and old age (Hemerijk, Palm, Entenmann and Van Hooren 2013). Integration policy towards migrants is rooted in this tradition. As such, the underlying concept and main feature of the German mode of

integration has been to open the core societal institutions (labour market, self-employment, education and training system, housing, health) to immigrants – including their family members – and to include them in the general welfare state and social policy system.

From the very beginning of foreign labour recruitment in 1955 – despite the temporariness of the early employment – migrants were included in the general labour market tariff system and the welfare state institutions. This policy aims at avoiding social class conflict, but derives from respect for human rights as well as from fundamental principles of social order. In present day Germany, the social order, i.e. the system of economic, social and political relations, is the so-called *Soziale Marktwirtschaft*: according to this concept the state is a welfare state and its role is understood in an interventionist sense, i.e. to help provide social security, social justice and to improve opportunities for disadvantaged groups. The most important aspect of the welfare system for immigrant integration is that non-citizen residents are generally included within it (Heckmann 2003).

German law grants reunification rights for TCN family migrants to the nuclear family, i.e. to minor children of German citizens and foreign nationals living in Germany, to the parents of minor children living in Germany as well as to the spouses and registered same-sex partners of German citizens and foreign nationals living in Germany. Additionally, there are exceptions for cases of particular hardship.

To elaborate, regulations depend on the family tie as well as on the status of the sponsor to be joined, i.e. whether the family member to be joined is an EU citizen, a German citizen or a third-country national. Family migration to a German citizen is easier than it is to third-country nationals, since German citizens enjoy a few more rights. It is also easier for EU citizens than for third country nationals to reunify their family, since they fall under the more generous provisions guaranteed by the General Freedom of Movement of EU Citizens.

### 1.2.2 Main actors in the area of family migration policies

Among national actors in family integration policy the Federal Constitutional Court (*Bundesverfassungsgericht*) is an important actor. Its major right is to interpret the constitution and to decide cases in the very last instance. The rules relating to family migration and integration have to be in accordance with article 6 of the constitution which states that the family shall be under special protection by the state. Importantly, it does not

say that the 'German family' is under special protection, but simply 'the family', independent of the citizenship of families.

This is the main rationale for not allowing major restrictive practices concerning foreign families in Germany, or even discriminatory practices. The protection of TCN foreign families has been solidified by the EU Directive 2003/86/EC on family reunification for third country nationals. It is this strong constitutional and European basis which explains why no major restrictions for the integration of TCN family migrants can be expected in Germany.

On the level of the Federal Government, the Ministry of Interior Affairs is the main actor regarding TCN family migrants. In migration and integration policies the Federal Agency for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*) serves as the ministry's administrative arm. Acting in accordance with the 2005 migration law (*Aufenthaltsgesetz*), migration control is a main function of the Ministry of the Interior. Control of irregular migration is a major part of overall migration control. Restrictive practices like a three year waiting period for reunited married persons before a partner gets a residence status of her/his own are legitimized as a means of migration control. Sham marriages are treated as a case of irregular migration and thus sanctions apply.

The Ministry of Labour Affairs is the main federal actor regarding access to the labour market. The rationale for temporary restrictions to labour market access for TCN family migrants is the protection of German and EU citizens from the competition of foreign and Non-EU citizens. This privilege, labelled "*Inländerprimat*", is much criticised by migrant organisations and by some employers' organisations.

In the sphere of civil society, advocates of a more 'liberal' integration policy for TNC family migrants can be found in the Christian churches, in the leadership of the five great welfare organisations and in some private foundations. Eight large private foundations have founded a migration research unit (*Sachverständigenrat Deutscher Stiftungen*) which publishes widely recognized annual reports with political recommendations.

Local actors have some leeway in interpreting conditions for allowing family reunification in judging, for instance, whether there is enough living space for a family in a house, but can do little on their own in relation to residence status or labour market access. As to rights, entitlements and opportunities, however, cities may offer additional measures that support the integration process. Some cities, in fact, go beyond the national rules and support

migrant integration on their own, as will be described in more detail within the chapter  
*Qualitative findings: the integration of family migrants.*

## 2 Conditions of stay and rationales: German legislation on family migration

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This chapter, based on Lüken-Klaßen 2013b, explores the German legislation on family migration. It outlines the legal basis and practical procedures of family migration and highlights both sides of the process, namely who is allowed to bring family members in and who is allowed to come – and under which conditions. Finally, it describes the conditions required for obtaining an independent residence status. The IMPACIM project particularly aims to investigate patterns of restrictions and entitlements that family migrants encounter regarding education, employment, social welfare benefits, health, housing, as well as political and civic participation. Thus, these areas are all dealt with separately. Afterwards, the political rationales for entitlements and restrictions are analysed, while the last part summarizes these findings.

### 2.1 Legislation on family migration in Germany

In Germany, foreign family members have the right to join German or even foreign citizens living in Germany, with the aim of ensuring safe family reunification. Thus, citizens and non-citizens living in Germany can be joined by their spouses and registered same-sex partners, by their minor children, and – if they themselves are minor – by their parents.<sup>3</sup> In addition, other family members may be granted a residence permit for the purpose of family reunification in cases of particular hardship; that is in cases in which familial assistance is needed, for instance due to illness, disability, care dependency or mental distress.

However, there are pre-entry restrictions to be met by the ‘sponsor’ and the immigrating family member. These restrictions depend partly, on the degree of kinship. On the other hand, they also depend on the status of the sponsor to be joined, i.e. whether the person to be joined is an EU citizen, a German citizen or a third-country national. The respective regulations are described in the following part, after the legal basis and practical procedures have been presented.

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<sup>3</sup> The concept of heterosexual civil partners does not exist in Germany; consequently civil partners are not included in the definition of nuclear family.

## 2.2 Legal basis and practical procedures

### 2.2.1 Legal basis

The legal entitlement to family migration is derived from Article 6 of the **German Constitution** (*Grundgesetz*, GG) which explicitly protects families (“marriage and the family shall enjoy the special protection of the state” (Art. 6 (1) GG), see also section 27 (1) *AufenthG*).

Entry and residence of third-country family members of both German citizens and third-country nationals living in Germany are regulated in sections 27 to 36 of the **Residence Act** (*Aufenthaltsgesetz*, *AufenthG*), which, in its first version, entered into force on 1<sup>st</sup> January 2005.<sup>4</sup> Parallel to the development of this act, the European Union developed the European Directive 2003/86/EC on the right to family reunification for third-country nationals. In order to fully transpose this Directive into German law, the Residence Act was modified by the Directive Implementation Act (EU-RLUmsG) which entered into force on 28<sup>th</sup> August 2007. Since then, the Residence Act includes more preconditions for spouses’ subsequent immigration from abroad. Further amendments have been made since, e.g. in order to transpose the European Directive 2009/50/EC on the immigration of highly educated skilled workers and their family members (‘Blue Card’). The version cited in this study dates 1<sup>st</sup> June 2012.<sup>5</sup>

While German and third-country nationals are covered by the Residence Act, EU citizens fall under the **Act on the General Freedom of Movement for EU Citizens** (*Gesetz über die allgemeine Freizügigkeit von Unionsbürgern*, *FreizügG/EU*).<sup>6</sup> This act also applies to EU citizens’ designated accompanying or joining family members of whatever nationality (i.e. including third-country nationals).

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<sup>4</sup> The complete name of this act is Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (*Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet* (*AufenthG*)). It is part of the Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners, Immigration Act (*Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern* (*Zuwanderungsgesetz – ZuwandG*)).

<sup>5</sup> How the complex Residence Act has to be applied is specified in the Administrative Regulations on the Residence Act; the most current version, cited in this study, dates October 2009 (*Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz – VV AufenthG*).

<sup>6</sup> The application of this act is detailed in the Administrative Regulations on the General Freedom of Movement for EU Citizens (*Allgemeine Verwaltungsvorschrift zum Freizügigkeitsgesetz/EU – VV FreizügG*); the current version, cited in this study, dates 26<sup>th</sup> October 2009.

Further, the **Agreement on the European Economic Area (EEA)** allows Iceland, Liechtenstein and Norway to participate in the EU's Internal Market, including the free movement of persons. Thus, in terms of movement and residence, citizens of Iceland, Liechtenstein and Norway enjoy the same legal rights as EU citizens (Stabsstelle EWR 2012). Thanks to the Agreement between the EU and Switzerland on the free movement of persons, Swiss nationals also enjoy almost the same legal rights as EEA citizens – but not in terms of discriminatory treatments.<sup>7</sup>

Besides, there are specific agreements between the EU and Turkey (**EU-Turkey Association Agreements**) having implications for Turkish citizen migrants and their family members. “They benefit from the provisions of the Ankara Agreement of 1963. This was adopted as a ‘pre-accession’ agreement with a view to Turkey’s eventual accession to the EU. Turkish citizens have long had a privileged position under the Ankara Agreement, and in particular under the 1970 Additional Protocol to the Agreement and the decisions of the Agreement’s Association Council. As Mole (2013, p. 14) states, “They come close to enjoying parity with Union Citizens in many respects except that they do not enjoy a direct right of entry as such” . As regards Germany, these agreements and hereinafter followed European Court of Justice (ECJ) decisions imply that a Turkish citizen who has been employed on the German labour market gets, under certain conditions, the right to continue that same or even another employment – and this right then implies the right of residence in Germany as well.<sup>8</sup> Turkish family migrants do not have direct specific rights thanks to these provisions. They benefit, however, from the standstill clause which prohibits the creation of any new requirement in addition to those which were in place in 1973 and which prohibits the deterioration of regulations (prohibition of the *reformatio in peius*). Consequently, aggravating regulations adopted after 1973 are not applicable for Turkish citizens. The regulation, for instance, that the marital cohabitation has to have lawfully existed in Germany for at least three years before a family migrant is entitled to an independent residence status, adopted in 2011, is not valid for Turkish migrants and their family members who only have to wait for two years (see section 2.4.1) (Frings, Tießler-Marenda 2012, pp. 328 et seq.).

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<sup>7</sup> According to the Agreement between the European Community and its Member States, on the one hand, and the Swiss Confederation, on the other, on the free movement of persons, ID 22002A0430(01).

<sup>8</sup> For detailed conditions see Frings, Tießler-Marenda 2012, pp. 319 et seq. and Mole 2013.

### 2.2.2 Practical procedure

The practical procedure for being accepted as a family migrant is as follows: a third-country national has to apply for family migration at the German embassy in the country of origin, which in turn will pass the application on to the local foreigners' authority of the designated sponsor. Once the foreigners' authority approves the application, the applicant will receive a visa for the purpose of family reunification before he/she enters Germany. Despite the official wording of subsequent family immigration, family members do not have to immigrate separately from abroad, but can also move together (27.1.1 VV AufenthG). That means a third-country national applying for a visa for the purpose of work, for instance, can simultaneously apply for a visa for family reunion. After entering Germany, the dependent has to apply for a residence permit for the purpose of family reunification at the local foreigners' authority before his/her visa expires (Kreienbrink, Rühl 2007, p. 18; Bundesministerium des Innern 2012b, p. 112).

This procedure applies to all third-country nationals other than citizens of the European Economic Area, Switzerland, the United States, Australia, Israel, Japan, Canada and New Zealand: due to bilateral agreements, citizens of these countries do not need a visa to enter Germany and may apply for the necessary residence permit after they have come to Germany. Comparable agreements exist for citizens from Andorra, Honduras, Monaco and San Marino (section 41 AufenthV). In addition, rejected asylum seekers with a tolerated status, living in Germany, do not need the visa before applying directly for a residence permit for the purpose of family reunion.

The family ties between the resident and the designated immigrating family member have to be proven by official documents, ideally a passport or other identification, certificates of birth or marriages and/or evidence of parentage (27.0.4 VV AufenthG). If evidence cannot be provided via official documents, evidence can be provided through a voluntary DNA-test (27.0.5 VV AufenthG).

## 2.3 **Conditions for entry and residence**

The conditions for entry and residence depend in part on the degree of kinship: this section explores the conditions for the migration of spouses and partners, of children and parents as well as those of other family migrants.



However, the conditions for entry and residence depend also on the status of the sponsor to be joined, i.e. whether the family member to be joined is (a) a German citizen, (b) a third-country national or (c) an EU citizen. As will be shown, Germans are privileged compared to third-country nationals who want to be joined by their family; they enjoy more extensive rights and have to fulfil less restrictive conditions. And since the Act on the General Freedom of Movement for EU Citizens is more generous than the Residence Act, EU citizens and their family members of whatever nationality are – in terms of family migration – in a better position than German citizens. The specific regulations for each of these groups are also discussed within the three following chapters.

### 2.3.1 Regulations for family reunification with spouses and partners

According to sections 28 to 31 of the Residence Act, spouses can obtain a residence title for the purpose of family reunification. All spouse-related provisions are also applied accordingly to ‘registered same-sex partners in life’ within the meaning of the Life Partnership Act (*Gesetz über die Eingetragene Lebenspartnerschaft – LpartG*), hereafter ‘same-sex partners’ (section 27 (2) in conjunction with sections 28 (1) and 30 (1) *AufenthG*).

A long-term non-marital relationship, by contrast, does not entitle applicants to the right of reunification (no. 27.1.6 VV *AufenthG*). In accordance with the European Directive 2003/86/EC, the same holds true for the event of a polygamous marriage, where the sponsor already has a spouse living with him/her in Germany (section 30 (4) *AufenthG*) (no. 27.1.6 VV *AufenthG*). False marriages are explicitly exempted from the right to family reunification (section 27 (1a) *AufenthG*).

Forced marriages are also exempted from the right of family reunification. The German law defines such a marriage as one in which at least one of the spouses was coerced and forced to marry someone by means of violence or threat (section 27 (1a) *AufenthG*, 27.1.6. VV *AufenthG*). Arranged marriages, by contrast, are not excluded since it is assumed that they are usually grounded in both spouses’ willingness and consent. Therefore, they are included as are all other families (no. 27.1.6. VV *AufenthG*).<sup>9</sup>

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<sup>9</sup> The distinction between forced and arranged marriage may be complicated in practice. Thus, cases of suspicion must be checked carefully (nos. 27.1.6. and 27.1a.2.1 VV *AufenthG*).

### **(a) Spouses and partners of German citizens**

Foreign spouses and registered same-sex partners of a German citizen are granted a residence permit because the German citizen has an absolute right of residence in Germany and would be prevented from marital cohabitation if his/her foreign spouse/partner was not allowed to enter the country (Kreienbrink, Rühl 2007, p. 34).

Notwithstanding, three preconditions have to be met:

- First, the resident to be joined has to be able to secure the family's livelihood, including adequate health insurance coverage; the residence permit for the subsequent immigration of dependents may be refused if the person to be joined by his/her dependents is reliant on social benefits for the maintenance of dependents or other members of his/her household (sections 2 (3) and 27 (3) AufenthG).<sup>10</sup> Two aspects of this should be highlighted: first, the livelihood can also be secured by a third party, such as other relatives and friends if they provide a formal obligation (section 68 AufenthG). And if the family member who is planning to move to Germany is willing and able to support persons who already live in Germany and have so far relied on public funds, a residence title is to be granted as well, provided that the other preconditions are met (no. 27.3.4 VV AufenthG) (Kreienbrink, Rühl 2007, p. 21). Second, the law defines (somewhat contradictorily) that the residence permit for the purpose of family reunion with spouses to Germans "should be granted as a general rule" even though the livelihood cannot be secured (section 27 (3), sentence 3 AufenthG); only in exceptional cases (which are not clearly defined by law), the precondition of secure living conditions can be decisive for the visa (Frings, Tießler-Marenda 2012, pp. 94 et seq.).
- Second, both spouses have to be at least 18 years of age (section 28 (1) in conjunction with section 30 (1) no. 1 AufenthG).

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<sup>10</sup> The law does not specify when a livelihood is considered as secure. In practice, the authorities require that the sponsor has an income of at least the standard rate for non-contributory social benefits (i.e. 337 EUR per person for couples per month, lower for children and youths), plus his/her rental charges. Therefore, (future) child allowance, parental allowances and pensions and unemployment benefit are also considered as income. By contrast, personal tax exempt amounts are deducted from the income, i.e. the respective sums have to be earned additionally (Weber et al. 2008).

- Third, evidence of basic German language skills<sup>11</sup> must be submitted by the subsequently immigrating spouse (section 28 (I) in conjunction with section 30 (I) AufenthG). The language requirements can be waived under certain conditions: the requirement shall have no bearing on the issuance of the residence permit where (a) the spouse is unable to provide evidence of a basic knowledge of German on account of a physical, mental or psychological illness, (b) the spouse's need for integration is "discernibly minimal" and (c) where by virtue of his/her nationality, the foreigner may enter and stay in Germany without requiring a visa for a long-term residence (section 30 (I) no. 1 AufenthG). This requirement is contested and might be revised in future; see part of Rationales for entitlements and restrictions towards the end of this chapter.

### **(b) Spouses and partners of third-country nationals**

As is the case for German citizens, third-country nationals living in Germany can also be joined by foreign dependents so that they can live together as a family (the rationale being to protect marriage and the family (section 27 (I) AufenthG)). In this case, however, more conditions have to be met.

- The first condition is that the resident third-country national possesses a residence title meeting the following requirements: he or she has to have (a) a permanent settlement permit, (b) an EC long-term residence permit, (c) an EU Blue Card, (d) a residence permit confirming that he or she is a long-term resident in another EU Member State and that he/she married in that state, or (e) a limited residence permit for the purpose of research or because the third-country national is entitled to asylum or has been granted refugee status. In case the resident third-country national possesses a limited residence permit for any other purpose than research, asylum or refugee status, the residence permit (f) either has to last for at least two years, or (g) the marriage has to have existed at the time of said permit being granted, and the duration of the foreigner's stay is expected to exceed one year (30 (I) no. 3 AufenthG).<sup>12</sup>

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<sup>11</sup> A1 level of the Common European Framework of Reference for Languages (no. 28.2.4 AufenthV).

<sup>12</sup> By contrast, family reunification is not granted if the foreigner resides illegally in Germany. Furthermore, it is not granted if the foreigner holds the residence permit on urgent humanitarian or personal grounds or due to

- A second condition, since 2007, is that both spouses have to be at least 18 years of age. Interestingly, this provision cannot be waived for the spouse of a German citizen, but might be waived for a spouse of a third-country national who is a highly qualified person, a self-employed person, a researcher or a long-term resident of another EU Member State.<sup>13</sup>
- Third, the immigrating spouse has to prove basic verbal communication skills in the German language. As is the case for spouses of German citizens, this requirement can be waived under the conditions explained above. Additionally, the language requirements can be waived for spouses who reunify with a highly qualified person, a self-employed person, a researcher or a long-term resident of another EU member state.<sup>14</sup> As mentioned above, this language requirement is contested and might be revised in future, see part of Rationales for entitlements and restrictions towards the end of this chapter.
- As a fourth precondition, the resident (or the subsequently immigrating family member) has to be able to secure the family's livelihood, as described in the chapter on spouses and partners of German citizens. It should be noted, however, that although the basic regulation is similar for the family reunion with Germans and third-country nationals, "exceptions" have to be made for family reunions in the case of Germans who are not able to meet the preconditions, while this is not the case for the family reunion with third-country nationals.
- Fifth, the resident has to show that sufficient living space is available (section 29 (1) no. 2 AufenthG). This is described in more detail in part on Housing.

The requirements of sufficient living space and a secure livelihood may be waived – and in some cases even have to be waived for refugees and persons entitled to asylum, as will be explained in part on Housing. It is noteworthy here that once the subsequently immigrated

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substantial public interest (section 25 (4) AufenthG). Additionally, the right is not granted if the foreigner is expected to be deported, but his/her departure is impossible (Kreienbrink, Rühl 2007, p. 30).

<sup>13</sup> More precisely, the spouse might be minor (a) if the sponsor is a highly qualified foreigner, a researcher or self-employed foreigner (holding a residence permit under sections 19-21 AufenthG) and the marriage existed already when the sponsor relocated the focus of his/her life to Germany; (b) if the sponsor is a researcher (holding a residence permit under section 20 AufenthG) immediately before he/she was granted a settlement permit or a permanent residence permit/EU; (c) if the sponsor holds a long-term residence permit of another member state of the European Union (residence permit under section 38a AufenthG) and marital cohabitation already existed in that state (section 30 (1) AufenthG).

<sup>14</sup> The details are the same as for the age requirements (section 30 (1) AufenthG).

spouse lives in Germany, the spouse's residence permit may be extended for as long as the marital cohabitation continues – even if the livelihood can no longer be secured and the couple can no longer afford the sufficient living space on their own (section 30 (3) AufenthG). After a certain period of residence, the family migrant will be entitled to a residence status which is independent of family ties (see part Conditions for an autonomous residence status).

### **(c) Spouses and partners of EU citizens**

The Act on the General Freedom of Movement for EU Citizens (FreizügG/EU) grants free movement within the EU, i.e. also on entry and residence in Germany, to Union citizens. Free to move – without any conditions – are EU citizens who are employees, who seek employment, who carry out vocational training, who are self-employed, who provide or receive services, and who have acquired the right of permanent residence. Other EU citizens not being gainfully employed (including students, pensioners and retirees) are free to move as well, but are subject to some conditions: they may enter and reside in Germany if they have adequate health insurance coverage and adequate means of subsistence, i.e. if the livelihood is secure (section 4 FreizügG/EU, 2.2.5 VV FreizügG).

This right of free movement does not only apply to EU citizens, but also to family members of EU citizens, regardless of nationality and irrespective of the time of the family reunification; thus, spouses as well as same-sex partners must therefore also be granted a residence permit (section 2 (2) nos. 6 and 7 in conjunction with sections 3 and 4 FreizügG/EU).

While for spouses and same-sex partners of non-gainfully employed EU citizens the livelihood has to be secure, no such requirement has to be met for the spouses and partners of employees, providers and recipients of services and the self-employed. Moreover, spouses and partners of EU citizens do not have to meet the additional requirements listed in the Residence Act, such as pre-entry German language skills, and are not obliged to attend an integration course (3.0.1 VV FreizügG).

Pursuant to section 2 (2) no. 5 FreizügG/EU, the right to free movement also allows EU citizens and their families to remain in Germany after they have terminated their employment or self-employed economic activity.

Finally, it shall be noted that the right to freedom of movement implies that EU citizens do not require a visa or a residence title in order to enter the federal territory and to stay in Germany (section 2 FreizügG/EU). Nevertheless, family members of EU citizens who are not EU citizens themselves require a visa for entry and a residence card (*Aufenthaltskarte*) to stay.<sup>15</sup> In any case, the visa and the residence card are only ‘material conditions’, i.e. they are, in principle, always granted (section 2 (4) FreizügG/EU, section 5 FreizügG, 2.4.2.1 VV FreizügG/EU/, 5.2.1 VV FreizügG/EU).

### 2.3.2 Regulations for family reunification of children and parents

#### **(a) Children of German citizens and parents of minor German citizens**

A residence permit is granted to the minor unmarried, non-German child of a German citizen<sup>16</sup> and to the non-German parent of a minor unmarried German citizen for the purpose of care and custody, provided that the German’s ordinary residence is in the federal territory (section 28 (1) nos. 2 and 3 AufenthG). The general precondition of being able to secure the family’s livelihood does *not* have to be met in the case of a German child joining a parent and nor in the case of a parent joining a child for the purpose of care and custody. In the case of the parent of a minor, unmarried German who does not possess the right of care and custody of said child, the residence permit may be granted to the parent although the livelihood cannot be secured if the family unit already exists in the federal territory (section 28 (1) sentence 4 AufenthG).

The reasoning behind this is that the German parent or child has an absolute right of residence in Germany and would be prevented from familial cohabitation if his/her foreign child or parent was not allowed to enter the country (Kreienbrink, Rühl 2007, p. 34).<sup>17</sup>

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<sup>15</sup> They are exempted from the visa requirement if they already possess a residence card of another EU member state.

<sup>16</sup> Since the amendment of the Nationality Act in 2000, children of German citizens obtain German citizenship by birth. Thus, the given case – non-German child of a German citizen – is an exception.

<sup>17</sup> It is noteworthy that children have the right to reunify with their biological and adoptive parent as well as with their stepparents if the biological/adoptive parent also reunifies with his/her new spouse, according to section 21 (1), No. 2 AufenthG (no. 27.1.5 VV AufenthG).

## **(b) Children of third-country nationals and parents of minor third-country nationals**

Unmarried children of third-country nationals (including students) shall be granted a residence permit up to the age of 18 if the child relocates the central focus of its life together with its parents to Germany and if both parents hold a limited residence permit or permanent settlement permit. Again, however, in most cases, the family's livelihood has to be secure (sections 2 (3) and 27 (3) AufenthG).<sup>18</sup>

People entitled to asylum or being recognized as refugees also have the right to be joined by their children (section 32 (1) AufenthG). In these cases, the authorities may not insist on evidence showing that the livelihood is secure (section 29 (2) AufenthG).

In the case of only one parent migrating with his/her child or a parent wanted to be joined by the child, he/she needs to hold the sole right of care and custody (section 32 (1) AufenthG). This can be problematic for parents from countries in which the concept of sole right of care and custody does not exist (e.g. some Eastern European countries) (Frings, Tießler-Marenda 2012, p. 115).

A distinction has to be made between the aforementioned migration of the whole family and children's subsequent immigration. Regarding the latter, there is an additional requirement for children older than 15, but younger than 18: these children will be granted a residence permit only if they have a command of the German language<sup>19</sup> or if their education and way of life to date suggests that they will be able to integrate into the "German way of life" (section 32 (2) AufenthG).

These provisions are supplemented, however, by a discretionary regulation to prevent special hardship "on account of the circumstances pertaining to the individual case concerned. The child's wellbeing and the family situation are to be taken into consideration" (section 32 (4) AufenthG).

Under certain circumstances, the subsequent immigration of parents of a foreign minor is possible as well: a residence permit shall be issued to the parents of a foreign minor who is entitled to asylum or is a refugee, if no parent entitled to legal custody is resident in

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<sup>18</sup> For the regulations regarding stepchildren, see footnote above.

<sup>19</sup> C1 level of the Common European Framework of Reference for Languages (no. 32.2.1 AufenthG).

Germany. The general precondition of a secure livelihood can be waived in this case (section 36 (1) AufenthG).

### **(c) Children of EU citizens and parents of minor EU citizens**

For children and parents who wish to join EU citizens, the same regulations apply as have been discussed in the chapter on spouses of EU citizens. The EU citizen's right to free movement within the EU is also granted to the EU citizen's family member of whatever nationality.

The definition of 'family' is broad and covers not only the parents of minor children but also children under 21 years (section 3 (2) no. 1 FreizügG). Further, it includes relatives in the ascending and descending line of the sponsor for whom these persons or their spouses provide maintenance (section 3 (2) no. 2 FreizügG).

The conditions of entry and stay are the same as those applying to spouses: free to move are children and parents of EU citizens who are employees, seek employment, carry out vocational training, are self-employed, provide or receive services, or have acquired the right of permanent residence. Children and parents of EU citizens not gainfully employed (and not falling under section 2 (2) nos. 1-4 and no. 7 FreizügG) may only enter and reside in Germany if they have adequate health insurance coverage and if the livelihood is secure (section 4 FreizügG/EU, 2.2.5 VV FreizügG).

This means that also adult people younger than 21 have the right to join their parents, although neither the parents nor the child him/herself are able to secure the livelihood.

As mentioned previously, the right to free movement also allows EU citizens and their families to remain in Germany after they have terminated their employment or self-employed economic activity (section 2 (2) no. 5 FreizügG/EU).



### 2.3.3 Regulations for the migration of family members outside the nuclear family

#### **(a) Other family members of German citizens or third-country nationals**

Regarding the immigration of other family members who are not part of the nuclear family (e.g. parents of adults or other close relatives outside the nuclear family), the regulations are the same for those of German citizens and third-country nationals: other family members may be granted a residence permit “if necessary in order to avoid particular hardship” (sections 28 and 36 AufenthG), i.e. in cases in which familial assistance is needed, for instance, due to illness, disability, care dependency or mental distress (no. 36.2.2.3 VV AufenthG). The residence permit should serve to establish or ensure a stable and long-term family (care and custody), which include the care and custody of children, but also maintenance payments or other material support (no. 36.2.1.1 AufenthV).

According to the rules on the application of the Residence Act, the following cases in particular are covered by these provisions: parents joining their adult children, adult children joining their parents, or minor children joining close adult relatives who possess the sole right of care and custody in the sense of a protected parent-child relationship (no. 36.2.1.3 VV AufenthG). As explained by Kreienbrink and Rühl, however, “these persons must not have any comparable family relationships abroad. For example, other minor dependents may only join family members in an ascending line (e.g. grandchildren joining their grandparents) if they are orphans or if their parents are demonstrably unable to care for them. The hardship provision set out in section 36 AufenthG also says that living in a family household has to be both appropriate and necessary to prevent particular hardship” (Kreienbrink, Rühl 2007, p. 14).

#### **(b) EU citizens’ family members outside the nuclear family**

For other family members who wish to join EU citizens, almost the same regulations apply as mentioned above. As explained, the Freedom of Movement Act includes all relatives in the ascending and descending line of the sponsor for whom these persons or their spouses provide maintenance (section 3 (2) nos. 1 and 2 FreizügG/EU). The only exception is constituted by students. The definition of ‘family member’ applied to them is tighter than for other EU citizens entitled to free movement and only refers to the nuclear family consisting of the spouse and the children of the student (section 4 sentence 2 FreizügG/EU).

## 2.4 Conditions for an autonomous residence status

Family migrants in Germany can get an autonomous residence permit that is independent of the sponsor. The following paragraphs describe the conditions of getting, first, a residence permit independent of the sponsor and, second, a permanent settlement permit.

### 2.4.1 Conditions for an independent residence permit

As said, after a certain period of time, a family migrant can get an **independent right of residence**, i.e. a residence permit that is independent of the sponsor and that entitles the family migrant to pursue an economic activity.

#### **(a) Regulations for an independent residence permit for family migrants having joined German citizens or third-country nationals**

Regarding **spouses and parents of minors** having joined German citizens or third-country nationals, this period of time generally lasts for **three years**: in the event of termination of marital cohabitation, the spouse's residence permit is generally extended (by initially one year) as an independent right of residence if marital cohabitation has lawfully existed in Germany for at least three years (section 31 (1) AufenthG).<sup>20</sup> The requirement for marital cohabitation to have existed for three years is waived if the sponsor has died while marital cohabitation existed in Germany (section 31 (1) AufenthG), and is also waived "if necessary to enable the spouse to continue his or her residence in order to avoid particular hardship". As such, the law specifies family migrants' "legitimate interests; in particular this is to be assumed where the spouse is the victim of domestic violence" (section 31 (2) AufenthG).

This is different for Turkish citizens: as explained in chapter 2.2, Turkish citizens and their family members benefit from a standstill clause of an EU-Turkey Association Agreement, prohibiting the creation of any new requirement in addition to those of 1973. In the context of the independent residence status, this means that for Turkish citizens the former regulation is valid, according to the fact that a marital cohabitation only has to have lawfully

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<sup>20</sup> Further, the sponsor must have been in possession of a residence permit, settlement permit or EC long-term residence permit up to this point in time, unless he or she was unable to apply for an extension in due time for reasons beyond his or her control.

existed in Germany for at least two years (instead of three years) in order to be entitled to an independent residence status (Frings, Tießler-Marenda 2012, pp. 329 et seq.).

For **children**, the regulations are as follows: upon a child reaching the legal age of majority, “the residence permit granted to the child shall become an independent right of residence which is unrelated to the purposes of the immigration” (section 34 (2) AufenthG).

#### **(b) Regulations for an independent residence permit for family migrants having joined EU citizens**

**Spouses** having joined EU citizens are allowed to stay in Germany **after a divorce** on condition that the marriage lasted for at least **three years** including at least one year in Germany. They can also stay if they have been allocated parental custody of the EU citizen’s children by virtue of an agreement between the spouses or by a court ruling, or if the divorce is necessary “in order to avoid special hardship, in particular because the spouse cannot be expected to continue the marriage due to the infringement of his or her legitimate interests” (section 3 (5) FreizügG/EU).

The **children** of an EU citizen who is entitled to freedom of movement and the **parent** who actually exercises parental custody over a child resident in the federal territory and attending an educational establishment, can keep his/her right of residence after the death of the EU citizen or upon the latter leaving the country until the children complete their education (section 3 (4) FreizügG/EU).

### **2.4.2    Conditions for a permanent settlement permit**

The conditions for getting a *permanent* residence/settlement permit are described in the following.

#### **(a) Regulations of settlement permit for family migrants joining German citizens or third-country nationals**

In principle, the duration of residence permits for immigrating family members depends on the status of the resident family member (sponsor). Nonetheless, there are two general rules: first, the duration of a family migrant’s residence permit should not exceed the

duration of the residence permit of the sponsor. Second, the first residence permit lasts at least one year and is prolonged afterwards (section 27 (4) AufenthG). For some migrants, though, participation in an integration course is obligatory in order to prolong their residence permit, as long as the family unity continues to exist. This regulation is elaborated on in the section on Education.

**Third-country family members joining a German citizen** are entitled to a permanent settlement permit after a period of three years if the family unity with the German citizen continues to exist, there are no grounds for expulsion, and he/she is able to communicate in German on a basic level (section 28 (2) AufenthG).

**Third-country family members joining a third-country national** have to wait longer and to meet more conditions in order to be entitled to a permanent settlement permit: a settlement permit shall be granted (according to section 9 (2) AufenthG) provided that

- the foreigner has held a residence permit for five years,
- his/her livelihood is secure,
- he/she has paid contributions into the statutory pension scheme for at least 60 months or furnishes evidence of an entitlement to comparable benefits from an insurance or pension scheme or from an insurance company; time off for the purposes of childcare or nursing at home shall be duly taken into account,
- the granting of such a residence permit is not precluded by reasons of public safety or order,
- he/she is principally permitted to be in employment or self-employed,
- he/she has an adequate knowledge of the German language<sup>21</sup> and basic knowledge of the legal and social system and the way of life in Germany and
- he/she possesses sufficient living space for himself or herself and the members of his or her family forming part of his or her household (section 9 (2) AufenthG).

If marital cohabitation (with a German or third-country national) ends by divorce or permanent separation before the spouse has received a settlement permit, the Residence

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<sup>21</sup> B1 level of the Common European Framework of Reference for Languages (no. 9.2.1.7 AufenthV).

Act entitles him/her to an autonomous residence permit, which allows him/her to pursue an economic occupation, provided that marital cohabitation existed lawfully in the federal territory for at least three<sup>22</sup> years (section 31 (1) no. 1 AufenthG). If the sponsor died while marital cohabitation existed in the federal territory, the spouse will also be granted an autonomous residence permit.<sup>23</sup> The duration of the autonomous residence permit is first limited to one year, but may be extended until the preconditions for a settlement permit are met (section 31 (4) sentence 2 AufenthG).

In order to prevent particular hardship, e.g. in case of a violent marriage, the condition that the marriage needs to have existed lawfully in the federal territory for at least three years can be waived (section 31 (2) AufenthG).

The regulations for children are somewhat more generous: once a child reaches the legal age of majority, his/her residence or settlement permit becomes an independent right of residence in its own right, which is not related to the purpose of family reunification (section 34 (2) AufenthG). Moreover, children who hold a residence permit for the purpose of family reunification will be granted an autonomous, unlimited right of residence (settlement permit) if they have held a residence permit for five years at the date of their 16<sup>th</sup> birthday. This also applies to adult foreigners who entered Germany as children, have held a residence permit for five years, possess an adequate knowledge of the German language<sup>24</sup> and have a secure livelihood, or are undergoing vocational training (section 35 (1) AufenthG) or if they had a right to return (section 37 AufenthG).

If the family relationship breaks down before the children receive an independent right of residence, they may be granted a residence permit if a parent possessing the right of care and custody holds a residence permit or settlement permit and the child lives in a family household with him/her or if the right to return is applied accordingly (section 34 (1) in conjunction with section 37 AufenthG).<sup>25</sup>

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<sup>22</sup> Until 2011, the marriage had to exist for two years (Bundesregierung 2011; Bundesregierung 2011).

<sup>23</sup> An autonomous right of residence can, however, only be granted if the sponsor, at the time at which marital cohabitation ended, held a right of residence which is basically eligible for consolidation. These regulations apply accordingly to registered partners (section 27 (2) AufenthG).

<sup>24</sup> B1 level of the Common European Framework of Reference for Languages (no. 35.1.2.3 AufenthV).

<sup>25</sup> The right to return is an independent right. It entitles third-country nationals who have lived in the Federal Republic of Germany as minors to return to Germany within a maximum of five years since leaving the country, to a residence title and to the right of pursuing an economic occupation. Originally, this right was not created to protect marriage and the family. While section 37 AufenthG erects significant hurdles (8 years of residence and 6 years of schooling, a secure livelihood by oneself or a third-party and submitting the application between 15 and 21 years of age), the provisions concerning a secure livelihood are covered by the Directive

## **(b) Regulations for permanent residence (EC long-term residence permit) for third-country nationals joining EU citizens**

In general, **family members** of EU citizens can receive the right of permanent residence (EC long-term residence permit) if they have continuously resided in the federal territory for **five years** (sections 4a (1 and 4) FreizügG/EU). This period can be shortened for the family member in case of death of the EU citizen, who migrated to Germany for professional reasons (section 2 (2) nos. 1-3 FreizügG/EU).<sup>26</sup>

By contrast, the residence permit can be lost if the family migrant does not live in Germany (for a reason which is not *per se* of a temporary nature) for more than two consecutive years (section 4a (7) FreizügG/EU) if it is required due to reasons of public order, safety or health (section 6 (1) FreizügG/EU).

## **2.5 Entitlements and restrictions facing non-EU family migrants**

The IMPACIM project aims to investigate patterns of restrictions and entitlements for family migrants and is particularly interested in the fields of education, employment, social welfare benefits, health, housing, and civic participation. Family migrants' restrictions and entitlements in these fields are presented in the following. However, one has to bear in mind some general aspects.

First, family migrants' rights do not depend on their status as family migrants *per se*, but, rather, are conditional (in the same way as for other migrants) on the kind of residence title they have.<sup>27</sup> Once a residence permit is issued, there is hardly any specific regulation for family migrants; family migrants have the same entitlements, duties and restrictions as other foreigners on the same residence permit – these do not depend on the purpose of immigration, but on the kind of residence title: persons with a limited residence permit have other entitlements, duties and restrictions than foreigners with an unlimited settlement permit.

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(Art. 7.1 b and c). Moreover, the periods mentioned above may be waived in order to prevent particular hardship (section 37 (2) AufenthG).

<sup>26</sup> This is only the case if they were permanently resident at the deceased's address at the time of his/her death and if the EU citizen has lived continuously in the federal territory for a period of at least two years at the time of his/her death or died as a result of an occupational accident or an occupational illness (section 4a (3) FreizügG/EU).

<sup>27</sup> Generally speaking, there are two kinds of residence titles: a residence permit which is issued for a limited amount of time, and a settlement permit which allows for an unlimited time of residence in Germany.

Second, the rights of entry and residence, i.e. the conditions of stay including the restrictions and entitlements, differ according to the legal situation of the sponsor (person to be joined) who resides in Germany.

Third, an underlying concept of German integration policy is the inclusion of migrants in the German welfare system. Thus, in many respects, migrants have the same legal rights as German citizens, as will be explained in the following chapter.

## 2.5.1 Education

Education is a crucial factor for gaining employment and developing a career, and thus for making successful progress in the receiving society. In the German education system, family migrants' entitlements and restrictions are very similar to those of Germans. There are, however, some additional migrant-specific provisions such as integration and language courses.

### **Pre-school programmes for migrant children**

Early childhood education – especially acquiring language skills at a young age – can play an important role in successful education. In Germany, there is a comprehensive range of crèches, kindergartens and child day care centres. Most of these facilities are either run by cities or by welfare organisations such as the Catholic Caritas, the Protestant Diakonie and the Workers Welfare Association (AWO). They are open to every child, irrespective of nationality and immigration status. However, the facility chooses the children it accepts – and it is up to the facility to set criteria and to assign priorities. Funding is provided by local authorities and the responsible federal state, together with compulsory parental contributions (Presse- und Informationsamt der Bundesregierung 2010). The parental costs can partly be covered by different institutions for low-income families.<sup>28</sup> These rights also apply to family migrants.

While every child has the right to be placed in a kindergarten from the age of three years on, an early application is recommended in order to be placed in the preferred facility. This

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<sup>28</sup> The youth welfare office covers the costs for low-income single parents and the employment agency for parents who receive unemployment benefits.

holds particularly true for crèches.<sup>29</sup> Thus, family migrants can be disadvantaged due to their time of arrival – a disadvantage not only for international migrants, but for internal ones as well.

Before enrolling for school, both native and immigrant children in kindergarten have to pass a language test in order to check their language competence. In case of language problems, special language support can be provided (Bundesamt für Migration und Flüchtlinge (BAMF) 2012c).

### **Primary and secondary education**

Generally, access to public schools is available to all children, regardless of the type of residential status and/or citizenship, including those arriving as family migrants. The right to education is codified in the German Constitution and implemented through the compulsory school attendance policy (see below).<sup>30</sup>

Generally, compulsory school attendance in Germany begins in the year in which the child has his/her sixth birthday and lasts for nine years.<sup>31</sup> (Presse- und Informationsamt der Bundesregierung 2010, p. 86). The assessment or year allocation is carried out by the responsible school administration in agreement with the responsible education authority and the parents (Bundesministerium für Bildung und Forschung 2012).

Attendance at both primary and secondary schools in Germany is free of charge, and transportation costs are reimbursed by municipalities. Costs for school supplies such as books, photocopies etc., as well as trips and excursions, have to be covered by parents, but can be reimbursed in cases of low-income parents.

Schools offer a range of special courses for migrant children. This can include preparatory classes, language courses, special classes combining instruction in the core subjects with language training, bilingual classes as well as special support lessons. All these are offered free of charge.

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<sup>29</sup> It is a goal of federal policies to provide places for 35% of 0-3 year-olds by 2013.

<sup>30</sup> An exception applies to asylum seekers: while all other children have the duty to attend school, children of asylum seekers have this *duty* only in some federal states, in others they have the *right* to attend school.

<sup>31</sup> Due to federal states' competence in education, provisions can differ in terms of age as well as duration (Bundesamt für Migration und Flüchtlinge (BAMF) 2012c).



## **Vocational education**

To find a job in Germany, it is important to have completed either a course of study, vocational training in the so called dual system, or in schools. Around 60% of young people attend vocational training in Germany, generally lasting between two and three years (Bundesamt für Migration und Flüchtlinge (BAMF) 2012c). In general, at least a certificate of the lower secondary school (*Hauptschule*) or an equivalent certificate from another country is required to start a vocational training programme. The rules not only apply to Germans, but also to family migrants.

## **Tertiary education**

After having migrated to Germany as a family migrant, he/she can also enter German institutions of higher education, since these are open to all who fulfil the admission criteria. Candidates must have gained the school-leaving qualification that entitles them to study at the type of institution of their choice. In the case of foreign qualifications, the individual institutions decide whether they meet entry requirements (Bundesamt für Migration und Flüchtlinge (BAMF) 2012c).

To study at a state institution of higher education, a study contribution fee (*Semesterbeitrag*) is charged by the respective institution – in general an amount of 50 to 150 EUR per semester.<sup>32</sup> Private institutions usually charge considerably higher fees (Bundesamt für Migration und Flüchtlinge (BAMF) 2012c).

## **Financial assistance for secondary and tertiary as well as vocational education**

Students attending certain types of secondary schools and those attending higher education institutes (e.g. universities) may be eligible to receive grants and loans pursuant to the Federal Training Assistance Act (*Bundesausbildungsförderungsgesetz*, BAföG). The so-called

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<sup>32</sup> Additionally, students have to pay additional tuition fees (*Studienbeitrag/Studiengebühr*) of approximately 500 EUR per semester in the federal states of Bavaria and Lower Saxony. Bavaria has decided to abandon this fee from autumn 2013 on; in Lower Saxony it will probably be abandoned in autumn 2014.

BAföG shall ensure that young people can benefit from comparable opportunities when embarking on careers, regardless of differences in their financial backgrounds.<sup>33</sup>

Migrants who came to Germany with the sole purpose of study (section 16 AufenthG) cannot claim for BAFöG assistance. Some family migrants, by contrast, are eligible to apply for this financial assistance: European citizens as well as third-country nationals who came to Germany for the purpose of family reunification with a German citizen or with an EU citizen always can apply for BAFöG; third-country nationals who came to Germany for the purpose of family reunification with another third-country national can apply for BAFöG only if the sponsor has a permanent settlement permit or has lived in Germany for at least four years. Furthermore, training assistance can be awarded to other foreign nationals if they – or at least one parent – have been gainfully employed in Germany for several years prior to the commencement of training (section 8 BAFöG).

### **Integration course**

Beside the offers within the general education system, there is a specific measure designed for migrants: integration courses. These consist of a language course (600 hours) and an orientation course on Germany's legal system, history and culture (60 hours). These have been introduced with the Residence Act in 2005: under the heading 'promoting and demanding' (*fördern und fordern*), the "willingness" of migrants to integrate is legally demanded and new offers and obligations have been established. Upon being issued his/her first residence permit, a third-country national family migrant is entitled to participate in an integration course (section 44 (1) AufenthG) (Bundesministerium des Innern 2012a).<sup>34</sup> The entitlement might turn into obligation in the case of insufficient language skills (section 44a AufenthG).<sup>35</sup>

For the participation in an integration course, each migrant has to contribute 1.20 EUR per lesson, except ethnic German resettlers (*Spätaussiedler*) and their families as well as low-income migrants.

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<sup>33</sup> Training assistance can, however, only be claimed if the individual's financial means have been exhausted. For this reason, BAFöG is dependent on family circumstances; the income of the student, his/her spouse, and his/her parents are all taken into consideration.

<sup>34</sup> Unless he/she will attend school in Germany or is in vocational training, shows a recognisably small need for integration, or already has a sufficient German language proficiency (section 44 (3) AufenthG).

<sup>35</sup> If a family migrant does not participate in an obligatory integration course or fails the final test, this can be sanctioned by a fine and/or refusal to prolong the residence permit (section 44a (3) AufenthG).

In order to receive a permanent residence permit, proof of sufficient knowledge of the German language has to be provided (section 3 (2) *Integrationskursverordnung*, IntV). This is usually done by passing the integration test, but can also be achieved via individual examination (Seveker, Walter 2010, p. 25).<sup>36</sup>

## 2.5.2 Employment

Access to the labour market is a crucial aspect of the structural integration of migrants. It is not only connected with the economic status and well-being of a migrant, but also with the opportunity to establish relevant social relations and to gain cultural, social and economic capital. This chapter shows how Germany regulates family migrants' access to the labour market.

### **Labour market access for family migrants**

As a general rule, labour market access for immigrating family members depends on the person who is to be joined, i.e. the sponsor. If the sponsor is entitled to pursue an economic activity, e.g. through a permanent settlement permit or a residence permit for employment, the same conditions apply for family members without any additional waiting time. If marital cohabitation has existed lawfully in the federal territory for at least two years, however, the family migrant will be granted access to the labour market (section 29 (5) *AufenthG*).

This means that a third-country national who joins his/her German family member is automatically entitled to work (section 28 (5) *AufenthG*). A third-country national joining another third-country national who has equal (unlimited) access to the labour market will be granted equal access as well, whereas dependents of sponsors with limited access will be granted limited access for the first two years, before then getting full access to the labour market as well.

“In the spirit of ‘one-stop government’ there is no separate working permit. The right to pursue an economic activity is derived from the residence permit” (Kreienbrink, Rühl 2007,

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<sup>36</sup> Since July 2009, immigrants who fail to reach level B1 in the test but achieve level A2 “receive a certificate of their language skills, and obtain the opportunity to take the advanced language course again (up to 300 hours) to reach level B1” (Strik et al. 2010, pp. 45.49).

pp. 18–19). There are no restrictions on the kind of employment family migrants are allowed to take up. Further, foreign employees have the same rights as all employees, such as legally regulated working hours and conditions. Collective agreements between employers and trade unions also apply to foreign workers.

Again, EU citizens and their spouses and partners enjoy privileged rights: they have unlimited access to the German labour market. This is due to the principle of non-discrimination on the grounds of nationality and on the free movement of labour (section 2 (1) FreizügG/EU, no. 2.1 VV FreizügG/EU).

Migrants' access to civil servant status is, however, limited. Since 1993, EU nationals have been treated the same as German nationals. Third-country nationals, by contrast, can only be nominated as civil servants if there is an 'urgent official need' ("*dringendes dienstliches Bedürfnis*") (section 7 BBG and section 4 BRRG). This does not mean that they cannot be employed by a public authority (e.g. a municipality), but that they have a different, less privileged, status, implying differences regarding their employment protection and pension scheme.

## **Requirements for entrepreneurs**

Access to entrepreneurship goes along with certain formalities every entrepreneur has to meet. First of all, the entrepreneur has to choose the legal structure of the company. Taxes, finances, and laws that apply to businesses are determined by this structure. In general, a new business has to be registered with the local Trade Office (*Gewerbeamt*), which then automatically informs other authorities such as the Tax Office, where a new business must also register. These regulations do not differentiate between entrepreneurs with a migration background and those without it. However, third-country nationals must have a valid and eligible residence permit that allows them to work in order to start their own business in Germany.<sup>37</sup> EU citizens do not need permission to settle or start their own business in Germany because of the freedom of movement, of establishment and of trade within the EU.

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<sup>37</sup> For third-country nationals who plan to immigrate to Germany in order to become self-employed the regulations of the Residence Act apply. According to these, "self-employed persons can obtain a residence permit if there is an overriding economic interest or a regional demand, if the activity can be expected to have a positive impact on the economy and if the funding is ensured" (section 21 AufenthG). The 'overriding economic interest' is given when entrepreneurs make an investment of at least 250,000 EUR or create five new jobs. If these requirements are fulfilled, the entrepreneur obtains a residence permit for a maximum of three

Founders of new businesses often need financial assistance. In addition to credit from banks, there are other financing possibilities for entrepreneurs in Germany, which are relevant to family migrants. Founders of businesses who need a relatively small amount of money and/or face difficulties in securing credit from banks (which is often the case in the hospitality industry), can apply for a 'micro loan' issued by the German reconstruction loan corporation (KfW). And people who want to start a business while unemployed can apply for monthly grants from the Employment Agency or the Jobcenter which can be granted for up to twenty-four months. These loans and grants can be granted for family migrants as well (Lüken-Klaßen, Pohl 2010).

### **Recognition of educational and vocational diplomas obtained in third countries**

Third-country nationals with educational certificates and vocational qualifications gained abroad can apply for recognition of their qualifications under the Professional Qualifications Assessment Act (*Berufsqualifikationsfeststellungsgesetz – BQFG*).

While for the majority of occupations in Germany such official recognition is not needed and qualifications can be used to apply directly to the German labour market, there are some occupations for which official recognition as well as registration is needed. Examples include medical occupations, legal practitioners, the whole public service system and some crafts. The recognition procedure varies depending on the specialist regulations of the individual regulated professions.

The recognition of foreign vocational qualifications within the area of the chambers of industry and commerce (*IHKs*), for instance, are recognized by the Chamber's centre *IHK FOSA* (Foreign Skills Approval); the recognition of higher education certificates is made by the Central Department of Foreign Education Systems (*Zentralstelle für ausländisches Bildungswesen, ZAB*) (Ständige Konferenz der Kultusminister der Länder in der Bundesrepublik Deutschland (KMK) 2012).<sup>38</sup>

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years. If the business is successful, i.e. the entrepreneur has sufficient means to assure a livelihood, he or she then gets a settlement permit.

<sup>38</sup> Special entitlements apply to EU citizens in order to ensure access to the same occupation under the same conditions as for natives; summarised in the Directive 2005/36/EG (Ständige Konferenz der Kultusminister der Länder in der Bundesrepublik Deutschland (KMK) 2012; Europäisches Parlament, Rat der Europäischen Union 2005).

To enhance the accreditation process for regulated occupations, a new Accreditation Act (*Anerkennungsgesetz*) became effective on 1 April 2012. The four important alterations are (1) the introduction of the general right of a recognition procedure, (2) the aim to create uniform national criteria and processes, (3) from now on the entry to the profession only depends on the content and quality of the occupational qualification (henceforth neither nationality nor origin are crucial) and (4) it is also possible apply from abroad (since the act refers to the willingness to work in Germany and not to the kind of residence permit) (Zentralstelle für die Weiterbildung im Handwerk (ZWH) 2012).

Thus, third-country national family migrants only need official accreditation for regulated occupations. If, however, they prefer to complete a recognition procedure, they are entitled to do so.

### **Anti-discrimination clauses for public and private employers**

With the enactment of the German General Equal Treatment Act in 2006 (*Allgemeines Gleichbehandlungsgesetz, AGG*) a strong framework against discrimination in the workplace, including those who apply for a job or an apprenticeship, who work at home, who work on subcontracts or appear to be self-employed, was created. In the scope of its implementation and in accordance with section 25 sub-section 1 of the AGG, the Federal Ministry for Family, Seniors, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend, BMFSFJ*) established the Federal Anti-Discrimination Agency (*Antidiskriminierungsstelle des Bundes, ADS*) in August 2008, which covers especially the support of discrimination victims (Lechner et al. 2011, p. 31).

Third-country national family migrants are also protected by this act and are free to contact the Anti-Discrimination Agency.

### **2.5.3 Social welfare benefits**

Welfare policies affect migrants' integration: inclusive policies protect migrants from severe poverty and some other risks (such as those posed by the labour market or by accidents) and may give migrants a sense of belonging to the new host country. In Germany, family migrants generally receive the same amount of social welfare benefits as German citizens –

though there are some limitations for newly arrived immigrants and for job-seeking immigrants.

### **Pre-entry admission criteria**

As a general principle, family migration is only allowed if the livelihood of the migrating person is secure, including adequate health insurance coverage, without recourse to public funds (sections 5 and 27 (3) AufenthG).<sup>39</sup> This can be done thanks to a wage or salary, but also parental allowance (*Elterngeld*), child allowance (*Kindergeld*) and supplementary child allowance (*Kinderzuschlag*), educational support (such as *Bafög*) as well as certain unemployment benefits (*Arbeitslosengeld I*) are accepted as contributing to the 'income' and insuring the livelihood, since these benefits do not fall under the category of 'public funds' (section 2 (3) AufenthG). The law does not specify the income level necessary; foreigners' authorities accept an income that covers the social security's standard rate for oneself and the immigrating family members, plus the cost for the rent.<sup>40</sup>

If a refugee or a person entitled to asylum is joined by his/her family, the requirement of a safe livelihood may be waived (section 29 (2) AufenthG). This requirement can further be waived if the family member who is planning to move to Germany is willing and able to support persons who already live in Germany and have so far relied on public funds to finance their livelihood after having entered Germany (no. 27.3.4 VV AufenthG).

Thus, except for refugees and people entitled to asylum, family migrants entering Germany are generally expected to take care of themselves without recourse to public funds.

If, however, over time family migrants become unemployed or are somehow unable to secure their livelihood, social welfare benefits are granted: once migrants are in possession of a limited residence permit or a permanent settlement permit, they hardly face limitations or restrictions in accessing the social protection system and benefits in Germany.<sup>41</sup> There is,

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<sup>39</sup> In this respect it is unimportant whether any benefit of the Social Code is being received or has been applied for; the issue is only whether there is an entitlement to such benefits (no. 27.3.1 VV AufenthG).

<sup>40</sup> In 2012, the social security's standard rate according to the Social Code Book II is 374 EUR for oneself, 337 EUR for the spouse and between 287 and 299 EUR for other family members (amount depending on the family member's age) (sections 20 and 23 SGB II). Following a court decision of the federal administrative court in 2008, the tax exempt amount has to be deducted from the fictive income; a decision tightening the situation of family members (Weber et al. 2008, p. 10).

<sup>41</sup> By contrast, asylum seekers whose procedure is still running and 'tolerated' persons (who are not entitled to asylum but cannot be deported for reasons of international law or on humanitarian grounds) only receive a

though, an initial period of three-months where access to social security is restricted for newly arrived migrants and labour seeking migrants and their families. This will be elaborated on in more detail in the chapters below.

If migrants apply for a renewal of their residence permit the requirement of providing a secure livelihood is generally waived; it is at the foreigners' authority's discretion to decide the renewal (Weber et al. 2008, p. 11).

### **Contributory benefits for family migrants**

Migrants with a residence or settlement permit principally enjoy the same benefits and have to comply with the same obligations as citizens. Consequently, both citizens and migrants have to fulfil several insurance obligations. They are required to possess unemployment insurance, a health insurance, a statutory accident insurance, and be a member of a statutory pension insurance scheme.

- The most important benefit is unemployment insurance to which contributions are mandatory for persons earning more than 400 EUR. Persons are insured automatically from the beginning of a paid job, with contributions from their employer, themselves and through subsidies from the central government. As a consequence, unemployed persons who were employed for at least 12 months are entitled to an unemployment benefit (called 'Unemployment Benefit I', according to Social Code book III). This is paid for a period of between six and 24 months (depending on the employment duration and the age of the applicant), with the level of benefits depending on their former income (section 147 SGB III). After that period, the unemployed receive social benefits, as described in more detail below.
- Another contribution-based scheme is statutory health insurance that covers a wide range of health services. It is financed the same way as unemployment insurance (Bundesministerium für Gesundheit (BMG) 2012). The scheme includes people who are employed (with an income over 400 EUR), enrolled in vocational training or studying, or unemployed and receiving 'Unemployment Benefit I' or 'Unemployment

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basic social protection to cover their basic needs. These are given in kind with additional needs covered in money. Moreover, these benefits are around 20 % lower than those given to any other recipient of social security (European Commission against Racism and Intolerance 2009, p. 37).



Benefit II'. Children are generally insured with their parents, as elaborated in more detail in the section on Health (Presse- und Informationsamt der Bundesregierung 2010, pp. 132, 134, 142).

- The third insurance scheme is statutory accident insurance. Aside from employees and trainees, children, pupils, and students are also covered by this scheme which is solely financed by the employer or the facility (e.g. childcare, education facility). It provides financial assistance for work accidents and any subsequent treatments (Presse- und Informationsamt der Bundesregierung 2010, p. 170).
- The statutory pension insurance scheme is financially comparable with the unemployment insurance and the statutory health insurance schemes. In order to receive benefits, people have to meet certain criteria such as the fulfilment of an insurance period and a minimum age. Except benefits for old age or disability, the insured person's surviving dependants can claim benefits from the insurance scheme after their death (Presse- und Informationsamt der Bundesregierung 2010, p. 176; Bundesministerium für Arbeit und Soziales (BMAS) 2006).

### **Non-contributory social benefits for family migrants**

To cut a long story short: the German welfare system generally includes non-citizen residents. Long-term unemployed persons and people who are unable to work (of whatever nationality) can receive social benefits if their usual place of residence is in Germany.<sup>42</sup> The amount of the social benefits – financed through taxes – depends on the receiver's and his/her family's financial resources and needs (Presse- und Informationsamt der Bundesregierung 2010, pp. 156, 160, 164, 168, 174; Deutsche Sozialversicherung Europavertretung 2012).

There are, however, three restrictions for migrants:

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<sup>42</sup> Since the so-called Hartz IV-reform, enacted in 2005, the regulation is as follows:

- Persons in working-age, capable of working, but unemployed can get 'Unemployment Benefit II' (*Grundsicherung für Arbeitsuchende – Arbeitslosengeld II*), called *Hartz IV*, according to SGB II
- Persons in working-age, not capable to work, and living together with another person in working age who is unemployed can get 'Social Allowance' (*Sozialgeld*) according to SGB II
- All other persons who are not capable to work can get 'Social Assistance' (*Sozialhilfe*) according to SGB XII.

- First, asylum seekers are not entitled to regular benefits (section 7 (1) SGB II, section 23 (2) SGB XII); they only receive a basic social protection (according to the Asylum Seekers Benefits Act (*Asylbewerberleistungsgesetz – AsylbLG*)). Once asylum has been granted (or a person has been recognized as refugee), however, the immigrant receives a temporary residence permit and is eligible for the regular benefits.
- Second, third-country nationals who are not able to work (e.g. due to age or illness), can receive financial assistance immediately after arriving in Germany.<sup>43</sup> By contrast, migrants of working age and capable to work cannot obtain any financial assistance within their first three months of stay in Germany. This also holds true for their children (section 7 (1) sentence 2 nos. 1 and 2 SGB II). In case the migrant finds employment or becomes self-employed, but needs top-up assistance due to low wages, the migrant and his/her family can get this benefit immediately (section 7 (1) sentence 2 nos. 1 and 2 SGB II).
- Third, a third-country national is not entitled to receive any benefit if his/her stay is for the purpose of looking for work. The same holds true for his/her family members (section 7 (1) sentence 2 no. 2 SGB II, section 23 (3) SGB XII). In cases where a job-seeking immigrant finds employment but needs top-up assistance due to a low wage or salary, the migrant and his/her family can get this benefit.<sup>44</sup>

Regarding the last restriction, it must be stressed that it is a contentious issue of current political and juridical debate whether job-seeking migrants are entitled or not to benefits. According to several courts at the federal state level, the mentioned restriction can neither apply to EU citizens, nor to citizens of those states that signed the European Convention on Social and Medical Assistance of the Council of Europe of 1953 – which are, aside from 15 EU states, Norway, Iceland and Turkey. According to its jurisdiction, citizens of these states are entitled to benefits immediately after arrival in Germany even if the purpose of their stay was to look for employment (jurisdiction of the Social Courts Berlin (S 96 AS 6145/12 ER and S 110 AS 28262/11) and Leipzig (S 20 AS 852/12 ER) of March 2012). The official line of the government as well as the Federal Employment Agency, however, is to follow a caveat issued by the government which implies that non-German citizens – both third-country nationals and EU citizens – are currently *not* entitled to receive any benefit according to the

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<sup>43</sup> They get 'Social Assistance' (*Sozialhilfe*) according to section 23 SGB XII.

<sup>44</sup> According to an expert interview with an expert of the Jobcenter Bamberg, conducted on 19 June 2012.

Social Code Book II if his/her stay is for the purpose of looking for work (Bundesagentur für Arbeit 2012).<sup>45</sup> This contradictory situation will have to be resolved by the Federal Social Security Court.

It is worthwhile to note that even after a decision at the federal level the situation might slightly differ at the local level, since the local “Jobcentres”, which are in charge of the social welfare benefits, fall under municipal authorities.

### **Non-contributory family benefits for family migrants**

All families with children can claim a wide range of family benefits.

- After the birth of a child either one or both parents can stay at home to take care of the child and receive ‘parental allowance’ (*Elterngeld*), whose amount depends on the former income of the parent, for a maximum of 14 months. It cannot only be claimed by German citizens, but by EU citizens and their family members of whatever nationality as well as by all parents with a permanent settlement permit or with a residence permit which allows them to work (Presse- und Informationsamt der Bundesregierung 2010, pp. 56, 58, 60; Bundesamt für Migration und Flüchtlinge (BAMF) 2012b). No ‘parental allowance’ is paid if the residence is only of a temporary nature, i.e. no ‘parental allowance’ is paid for students or for people doing further training for a limited period of time (section 1 (7) BEEG) – except when they can prove a case of particular hardship.
- Parents with children under 18 years of age, or under 25 but who are in vocational training or higher education are entitled to ‘child allowance’ (*Kindergeld*).<sup>46</sup> Again, the monthly payment will also be paid to all parents with a permanent settlement permit or with a residence permit which allows them to work (Presse- und Informationsamt der Bundesregierung 2010, pp. 64, 66; Bundesamt für Migration und Flüchtlinge (BAMF) 2012b). No ‘child allowance’ is paid if the residence is of a temporary nature, i.e. it is not paid for students or for people doing further training for a limited period

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<sup>45</sup> In April 2012, the Federal Ministry of Labour and Social Affairs recognised that courts might allow EU citizens to apply for social assistance (*Sozialhilfe*) according to the Social Code Book XII, also immediately after arriving in Germany (Deutscher Bundestag).

<sup>46</sup> The monthly payment rises with the amount of children: for the first and second child, one gets 184 EUR, for the third 190 EUR and for every for any further child 215 EUR.

of time (section 1 (3) BKG). Again, in cases of particular hardship, the allowance can be paid.

- Further, parents with an income below a certain level can claim a 'supplementary child allowance' (*Kinderzuschlag*) which can be granted for a maximum of 36 months (Presse- und Informationsamt der Bundesregierung 2010, p. 68; Bundesamt für Migration und Flüchtlinge (BAMF) 2012b).

To summarize, TCN family migrants are eligible for a wide range of social welfare benefits, covering unemployment risks as well as health care, retirement, and child care provisions. The social welfare benefits hardly differ from those received by German citizens – if the family migrant held a permanent settlement permit or a residence permit which allows them to work. On the other hand, this means that students and asylum seekers as well as their families do not get these allowances.

## 2.5.4 Health

The issues of migrants' health and access to health care are not only relevant with regard to human rights, but also vital in helping these people integrate in the German society. The well-being of migrants is crucial for their integration, because the state of health affects migrants' participation in society. Since migrants might have differing needs, rights and obstacles to health care than autochthonous persons do, it is important that European states explicitly look at migrant health and health care. Despite its significance, many European states have not sufficiently or have only recently started to deal with migrant health, their rights and access to health care (Mladovsky 2007; Ingleby et al. 2005).

### **Pre-entry admission criteria**

In principle, family reunification is to be granted. The granting of a residence title shall generally presuppose, however, that the foreigner's residence does not compromise or endanger the interests of the Federal Republic of Germany (section 5 (1) no. 3 AufenthG). The public interest includes public health (5.1.3.5.1 VV AufenthG). Still, the regulations do not include specification on what this would entail.

Another precondition for family reunification as mentioned earlier is adequate health insurance coverage (section 2 (3) AufenthG). This is fulfilled if one has a statutory or private health insurance (no. 2.3.5.1 and no. 2.3.5.2 VV AufenthG), which might – in the case of the statutory health insurance – be covered without additional costs by family co-insurance of the dependent with his/her sponsor.

Since a third-country family migrant must have sufficient health insurance coverage, he/she then has the right to the same treatment as the resident population, irrespective of nationality. The respective entitlements are explained in the following.

### **The German health care system: statutory and private health insurance opportunities**

Since 1 January 2009, all people with residence in Germany have to be insured irrespective of nationality (Presse- und Informationsamt der Bundesregierung 2010, p. 136).<sup>47</sup> There are two types of health insurances in Germany: statutory and private health insurance. The statutory health insurance – by which most people are insured<sup>48</sup> – covers a wide range of health services. Their services are regulated in the Code of Social Law V (*Sozialgesetzbuch (SGB) Fünftes Buch (V) – Gesetzliche Krankenversicherung – SGB V*). Since statutory health insurance is a ‘community of solidarity’ (section 3 SGB V) all health services are financed through their members, employers as well as through government’s subsidies (Bundesministerium für Gesundheit (BMG) 2012).

Workers and employees with a monthly salary of more than 400 EUR are compulsory members of statutory health insurance as are trainees (and under certain conditions interns), students of state universities as well as recipients of Unemployment Benefit I and II (*Arbeitslosengeld I and II*) (section 5 SGB V) (Presse- und Informationsamt der Bundesregierung 2010, pp. 132, 134, 142). People earning less than 400 EUR monthly are free from compulsory insurance; instead they can be co-insured with others (section 7 SGB V). If the salary of workers and employees exceeds the upper income limit of (pre-tax)

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<sup>47</sup> Before then, officials, freelancers and higher-income earners did not have to be insured (insurance I. Der Versicherungsvergleich 2009). And despite the obligation to have health insurance in Germany, there are still some who are uninsured. Such a basic insurance always includes ambulant and stationary care (Presse- und Informationsamt der Bundesregierung 2010, p. 136). In the case of illness of an uninsured person, the person will be automatically insured in the system that applies to the work he or she carried out (Presse- und Informationsamt der Bundesregierung 2010, p. 136).

<sup>48</sup> In 2003, 94% of migrants in Germany were insured by the statutory health insurance (Razum et al. 2008).

49,500 EUR per year, then this person can choose to insure him/herself in a private health insurance. Freelancers and officials are always free to choose a private health insurance (sections 5 (5) and 6 (1) SGB V). However, whether they are taken as members is at the discretion of the company (Herzner 2011).

The monthly contribution that members of statutory health insurances have to pay depends on their salary. In 2011, the regular contribution amounted to 15.5% of one's gross income (section 241 SGB V). Members are entitled to health services and benefits that deal with the avoidance, abatement and early diagnosis of illnesses, contraception, abortion, and treatment of other diseases. Further, officially recommended vaccinations are covered (Bundesamt für Migration und Flüchtlinge (BAMF) 2011d).<sup>49</sup>

With a statutory health insurance in Germany, family members such as same-sex partners, spouses and children below a certain age can be co-insured with the corresponding sponsor (wife, husband, partner and parent). This co-insurance is free of charge, irrespective of nationality, if the spouse, partner and child do not exceed a monthly salary of 400 EUR (section 10 (1) SGB V) (Presse- und Informationsamt der Bundesregierung 2010, p. 142).

The member's monthly contribution to a private health insurance fund does not depend on one's salary, but on the health situation and age of the insured<sup>50</sup>, on the tariff chosen by the member (defining benefits and services) and on the co-payment. This is laid down in the contract and defines to what amount the patient covers costs by him- or herself in case of curative treatment (Herzner 2011; Presse- und Informationsamt der Bundesregierung 2010, p. 134).<sup>51</sup>

While the German insurance system covers a wide range of health services, some services are not or only in part covered by one's health insurance and have to be paid by the patient. An example for these services – known as Individual Health Care Services (*Individuelle Gesundheitsleistungen – IGeL*) are the costs of dental prostheses which partly have to be paid by the patient. There are no differences, though, for family migrants and German citizens.

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<sup>49</sup> A study from the year 2009 indicates that children and youths with a migrant background are significantly less vaccinated with the basic vaccinations diphtheria and tetanus than children and youths without migrant background. However, looking at the group of youths and children with a migrant background, the vaccination rate of those from the first generation is worse than that of latter generations (Blümel 2009).

<sup>50</sup> In general, in private health insurance, elderly and sick persons pay more than the young and healthy.

<sup>51</sup> The higher the defined co-payment, the lower is the monthly contribution by the member. The limit of co-payment lies at 5,000 EUR per year (Presse- und Informationsamt der Bundesregierung 2010, p. 136).

## **Access to health care**

In the case where an ill person has statutory health insurance, he or she does not have to pay for visiting a medical practitioner. If a patient needs a prescription, he or she can get the medications at a pharmacy where the proportion paid by the patient does not exceed the maximum amount of ten EUR. Persons under 18 years of age do not have to pay any additional payments (Presse- und Informationsamt der Bundesregierung 2010, p. 138).

If the patient has private health insurance, he or she initially pays the costs (e.g. pharmacy and hospital bills) and – after sending the invoice – retrospectively receives the money back from the insurance (Bundesamt für Migration und Flüchtlinge (BAMF) 2011b). Depending on the type of insurance and illness that caused the costs, the patient has to compensate for equity and additional contribution (Presse- und Informationsamt der Bundesregierung 2010, p. 136).

Regarding hospitals, members of statutory health insurances have access to German hospitals, except for a few private clinics, which are exclusive for members of private health insurances. Normally, the practitioner admits the patient to the hospital. There, the patient of a statutory health insurance is obliged to contribute to the costs by paying ten EUR per day for a maximum of 28 days a year. The statutory health insurance pays the remainder of the costs (Presse- und Informationsamt der Bundesregierung 2010, p. 138). Members of a private health insurance do not have to contribute to the hospital costs. However, payment for special services such as a single room or treatment by the chief physician also depends on the private health insurance of the member.

Pregnant women of any nationality with insurance have the right to access antenatal care, medical examinations, provision of medicines, medical care, the aid of a midwife, birth in hospital and maternity pay.<sup>52</sup> Like autochthonous women, migrant women are protected under the Maternity Protection Law, which inter alia defines the employment ban for mothers of six weeks before and eight weeks after giving birth (Presse- und Informationsamt der Bundesregierung 2010, pp. 42, 44, 46, 50, 52).

People with drug addictions have the option of accessing unbureaucratic and anonymous aid; there are several organisations and self-help groups. With regards to eating disorders,

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<sup>52</sup> The costs of abortion are normally not covered by a statutory health insurance. The costs will be covered by a statutory health insurance if it falls under the indication rule. This can be the case if a woman was raped or her health is in danger due to pregnancy (Presse- und Informationsamt der Bundesregierung 2010, p. 44).

parents of affected children can consult the public health department and paediatricians. Moreover, free information is available at the Federal Centre for Health Education. In case of HIV, Aids or questions concerning this illness, one can anonymously contact the public health department or special Aids-information centres (Presse- und Informationsamt der Bundesregierung 2010, pp. 148, 150, 152).

To sum up, Germany's health care system offers the same rights for family migrants as for autochthonous persons. Health services, benefits and costs depend neither on the nationality nor the migration status, but on the chosen health insurance and tariff. It is worthwhile to bear in mind that even though family migrants have the same rights to access health care, they may encounter or perceive barriers and discrimination. These may lead to migrants not profiting from the German health care system to the same extent as does the German population (Hieronymus et al. 2011).

### 2.5.5 Housing

Housing is one of the most important aspects with regard to integration of the migrant population. It is seen as playing an important role in the integration process and counts as a central indicator of the integration status and ongoing integration process since infrastructure and (integration) opportunities depend on it (Bosswick et al. 2007). This chapter describes housing-related pre-entry admission criteria for family migrants, family migrants' access to social housing and housing allowances as well as anti-discrimination clauses for private housing.

#### **Admission criteria before entry**

If a foreigner wants to come to Germany in order to reunify with his/her family, they face different regulations relating to housing depending on the status of the sponsor.

For family members with third-country citizenship joining a third-country national in Germany, there is a 'compulsory requirement' which has to be fulfilled by the sponsor that 'sufficient living space' must be available (section 29 (1) no. 2 AufenthG). Sufficient living space exists if each family member that is over six years has twelve square meters and each family member that is younger than six years has at least ten square metres at his/her



disposal. To be 10% under this standard is accepted as well (no. 2.4.2 VV AufenthG). Regarding this provision, it is noteworthy that once the subsequently immigrated family member lives in Germany, his/her residence permit may be extended for as long as the cohabitation continues – even if the sufficient living space cannot be provided anymore (section 30 (3) AufenthG).

For refugees and persons entitled to asylum, the conditions are more generous: in the case of persons entitled to asylum and recognized Convention refugees the authorities may not insist on evidence that the foreigner has sufficient living space. In some cases, the authorities have to waive this condition (namely if the application for issuance of a residence title is filed within three months of final recognition as refugee or person entitled to asylum and if it is not possible to live together as a family unit in a state outside the European Union to which the family has special ties (section 29 (2) AufenthG).

For a third-country family member joining a German citizen, by contrast, there is no regulation regarding sufficient living space (section 28 AufenthG). The same holds true for a family member joining an EU citizen, independent of the family member's nationality and the time of the family reunification (section 2 (2) no. 7 in conjunction with section 3 and 4 FreizügG/EU).

### **Access to social and public housing and to housing allowances**

In Germany, two public measures exist which aim at supporting households: subsidized social housing, and housing allowances. Since an underlying concept of German integration policy is the inclusion of migrants in the German welfare system, migrants have the same legal rights to apply for housing allowance and social housing as German citizens, provided they live legally in Germany, the apartment in question is situated in Germany, and the person living in this accommodation pays the rent or cost of his accommodation on his/her own. Thus, family migrants have the same entitlements as German citizens.

The legal basis for getting social housing is the Housing Assistance Act (*Gesetz über die soziale Wohnraumförderung*, WoFG), which seeks to ensure that sufficient affordable housing is available. It pursues the primary objective of assisting households that face difficulties in accessing the regular housing market, namely low-income families as well as families and other households with children, single parents, pregnant women, the elderly and disabled,

the homeless, and others who need assistance (section 1 (2) No. 1 WoFG). The law establishes that housing companies who provide inexpensive dwellings within the scope of a social housing scheme shall receive financial support from the state. These social housing dwellings have to be made available to people in need of inexpensive housing. In order to be able to apply for such accommodation, one has to register at the local authority in question and apply for a certificate called *Wohnberechtigungsschein*, which is available to all people below a certain income level (section 9 and 27 WoFG).<sup>53</sup> As already noted, one has to live at least for one year (in some cities for three years) in the city before the certificate will be granted – a regulation with negative impacts on newly arrived persons, be they German citizen or foreign, which also has negative effects on newly arrived family migrants. Some states, however, have specific arrangements. In the state of Schleswig-Holstein, for instance, family members who still live abroad can be taken into account in the whole application process if their immigration is imminent.<sup>54</sup>

The legal basis for housing allowances is the Housing Allowances Act (*Wohngeldgesetz*, WoGG). A housing allowance is paid as a top-up subsidy to the rent or the mortgage in order to ensure appropriate housing conditions for individuals and families (section 1 (1) WoGG). Whether a household is entitled to this form of subsidy (and, if so, to what extent), depends on a combination of three criteria: (a) the number of household members (family and relatives); (b) the household income; and (c) the level of the rent (section 4 WoGG). All German and non-German residents – even asylum-seekers – who meet the formal eligibility criteria can apply for this subsidy and are legally entitled to receive it (section 3 (5) WoGG) (Peucker 2009). Thus, there are no explicit, formal restrictions for family migrants.

### **Anti-discrimination clauses for private housing**

The German Equal Treatment Act (*Allgemeines Gleichstellungsgesetz*, AGG) prohibits discrimination based on race or ethnic origin, religion or belief, sex, disability, age or sexual orientation (section 1 AGG). The AGG makes, however, several explicit exceptions in which

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<sup>53</sup> An application for such a certificate contains information about all members of the family and their income, detailed information about the current flat, reasons for the additional living space and information on the 'social urgency'. Holding such a permit is the precondition, but not an automatic guarantee for getting social housing. The landlord – though bound to rent the flat only to a person with such a permit – selects his/her tenants, in due consideration of existing legal provisions such as the AGG.

<sup>54</sup> As described in the „Verwaltungsvorschrift zur Sicherung von Bindungen in der sozialen Wohnraumförderung nach Wohnungsbindungsgesetz und Wohnraumförderungsgesetz (VwV-SozWo 2004)“.

unequal treatment in access to housing is considered lawful: unequal treatment is not deemed as discriminatory where it serves 'to create and maintain stable social structures regarding inhabitants and balanced settlement structures, as well as balanced economic, social and cultural conditions' (section 19 (3) AGG).

### **Criteria for obtaining mortgages**

The conditions for obtaining a mortgage are not contingent on nationality but on guarantees the recipient can provide, such as stable income. The final decision rests with the bank providing the mortgage.

#### **2.5.6 Political and civic participation**

Democratic legitimacy requires participation by all groups of society – including migrants – in the political process, as stated, for instance, by the Council of Europe (Parliamentary Assembly of the Council of Europe 2001). Furthermore, active engagement of migrants in civil and political life can have positive impacts on both the individual and the community: “It can provide the migrant with a sense of belonging and commitment to the society, and, by strengthening bonds with non-migrants, contribute to developing social capital and cohesion. Participation also provides a means for migrants to express their needs to government or employers and thus serves as a method of communication not available through the ballot box” (Spencer, Cooper 2006, p. 50).

Nevertheless, for some decades, political and civic participation of migrants was not considered to be an important issue in either academia or in politics. This was due to the fact that immigrant workers were not considered as potential citizens and were thus not supposed or expected to be politically active (Martiniello 2005, p. 1). This view has changed significantly; migrants' political and civic participation has become a topic of public concern. The following chapters present family migrants' voting rights, their access to local democratic participation processes as well as the national rules on party and NGO membership affecting family migrants.

## **Voting rights**

In Germany, active voting rights (to be allowed to vote) and passive voting rights (to stand for election) depend on citizenship. German citizens are entitled to vote on local, state, national and European level and are allowed to run for respective elections, regardless of their country of origin if one is registered in the community for a period of at least three months (Art 12 – 15, BWahlG). Since the Treaty of Maastricht entered into force in 1994, citizens of the European Union have been allowed to vote and stand for elections on the local level if they have been registered in the community for a period of at least three months. EU citizens are also eligible to vote for European Parliament elections if they choose to vote in Germany rather than in their country of citizenship (Art. 28, sec. 1, GG). Third-country nationals are not eligible for candidacy or voting in elections at any level.

To conclude, active and passive voting rights neither depend directly on the purpose of immigration nor on the status of the residence permit. Whether a family migrant has or has no voting rights depends on his/her nationality.

## **Access to local democratic participation**

As already mentioned, third-country family migrants have no right to vote or to stand as a candidate in elections. Furthermore, they are not eligible to take part in forms of direct democracy, like petitions for a referendum (*Bürgerbegehren*) on a municipal level, and popular petition (*Volksbegehren*) on the national level (Deutscher Bundestag 2002).

Yet most city councils provide other forms of civic participation, namely Integration or Foreigners' Advisory Councils (*Integrations- or Ausländerbeirat*). The first Municipal Foreigners' Advisory Councils were introduced in the early 1970s. Today, they exist in about 450 German towns and cities as political representation of the local foreign population; its functions are to support local politics, to contribute to the improvement of the migrants' situation within a city and to enhance foreigners' political say. Therefore, the council may advise the city government and city council and its various committees in all matters of local politics. If a petition is brought, its proposals and positions must generally be considered. They have, however, no actual rights to decide on community actions.

The composition and specific tasks of these advisory councils differ significantly from one federal state to another and even from city to city, since the responsibility for regulations lies within the federal states – and some states have adopted respective regulations while others have not. In general, all foreigners living for at least three months in a city have the right to stand as a candidate for the local Foreigners' Advisory Council and to vote in the respective election. In some communities, naturalized migrants, i.e. German citizens, have an active and passive voting right for these councils as well (which are then often labelled "Integration Council"). Some cities prefer a model according to which the council's members are not elected but appointed by the city council (e.g. in the city of Stuttgart); or the councils consist of elected and delegated members of immigrant organisations and/or experts of the native population (Storz, Wilmes 2007; Lüken-Klaßen, Heckmann 2010, p. 52).

In some federal states local Foreigners' Advisory Councils have joined together to form associations and working groups which help to coordinate and support the local efforts, such as the Integration Council of the federal state of North Rhine-Westphalia (*Landesintegrationsrat LAGA NRW*).

Although research on the political impact of these councils as well as on councils' federations is limited, scholars largely agree that these forms of civil participation only partially support the 'pure' political participation of migrants and consider that their influence on local decision processes is low (Hunger, Candan 2009).

To summarize, there are different forms of Integration or Foreigners' Advisory Councils that are useful instruments allowing third-country family migrants to participate in local politics. However, since they have no actual rights for decision-making, they cannot compensate for the lack of opportunities for political participation.

### **Rules on party membership**

In German Law on Political Parties (*Gesetz über die politischen Parteien*, PartG), the party membership of migrants and their families is not subjected to any restrictions. Yet restrictions can be made by the various parties in their statutes – and some German parties have introduced restrictions affecting (family) migrants in an indirect way.

In general, one can say that all German parties are open to members with a migration background, irrespective of nationality. Two parties have introduced prerequisites referring to the length of stay in Germany: In order to become a member of the conservative parties the Christian Democratic Union (CDU) and the Christian Social Union of Bavaria (CSU), one has to have lived in Germany for at least three years. Similarly, the liberal Free Democratic Party (FDP) asks for two years of residence. Further, in the CDU/CSU and the FDP, the membership of a foreigner ends with the loss of the residence permit (CDU 2003; FDP 2010).

The Social Democratic Party (SPD), the Alliance '90/The Greens (BÜNDNIS 90/DIE GRÜNEN) and The Left Party (DIE LINKE) do not have such restrictions and each person can become a member of their parties as long as one lives in Germany (SPD 2010; BÜNDNIS 90/DIE GRÜNEN 2010; DIE LINKE 2011).

### **Rules on NGO membership**

According to Article 20 of the Universal Declaration of Human Rights, which has also been adopted by Germany, everyone has the right to gather peacefully and form associations and no one may be compelled to belong to an association. Article 1 of the German Law on Associations (*Gesetz zur Regelung des öffentlichen Vereinsrechts, VereinsG*) clarifies the general freedom of forming associations.

There are, however, some specific regulations for the so-called foreigners' associations: according to the German Law on Associations any association is considered a foreigners' association if more than half of the board or the members of the association are foreigners (Art. 14 (1) VereinsG). Contrary to mainstream associations, foreigners' associations not only have to register officially, but additionally have to provide information about their activities to the local authorities (Arts. 19-21 VereinsGDV). Finally, it is worthwhile to note that the Law on Associations has a specific article on foreigners' associations, detailing possible reasons for forbidding the association (Art. 14 VereinsG) (Jagusch 2008).

Thus, NGOs may have specific requirements regarding membership rules that might affect migrants and their families. In principle, however, every family migrant can found an association or other NGO in Germany or become a member thereof, irrespective of their nationality.

## **2.6 Rationales for entitlements and restrictions**

As explained previously, German law grants reunification rights to families. There are, though, some entry restrictions (such as age requirements), and pre-entry requirements (such as language competence) to be met. Once the family migrants have received a visa for family migration as well as a residence permit, however, migrants have wide-ranging rights regarding many services and benefits. This part elaborates on rationales for granting entitlements and establishing restrictions.

### **Rationale for granting the right to family migration**

The legal entitlement to family migration is derived from Article 6 of the German Constitution (*Grundgesetz*, GG) that explicitly protects families: marriage and the family shall enjoy the special protection of the state (Art. 6 (1) GG, see also section 27 (1) *AufenthG*). The current implementation of this fundamental right has been influenced by European legislation, namely by the EU Directive 2003/86/EC on the right to family reunification for third-country nationals.

### **Rationales for pre-entry requirements**

In the course of the debates about the formulation of the Residence Act of 2004, the policy on family reunification was discussed explicitly and extensively. Two years later, in 2006, the discussion emerged again, when Germany had to reform the Immigration and Residence Act in order to fully implement the EU Directive 2003/86/EC on the right to family reunification for third-country nationals. The debates were mainly based on the integration of family migrants: one focus was on the insufficient language competencies of sections of the migrant population, another on ‘misogynistic parallel societies’, referring to women living in Germany who are trapped in a forced marriage and deprived of their rights (Lechner 2012, p. 14).<sup>55</sup>

Against this background, the discussion was dominated by the question of whether an age limit should be introduced for minor children who want to enter Germany. “Positions ranged from reducing the age limit down to 10 years to increasing it up to 18 years. In the

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<sup>55</sup> These debates were boosted by the ‘honour killing’ of a young Turkish woman of Kurdish origin by family members in Berlin in February 2005.

end the agreement foresaw maintaining the existing age limit of 16 years and introducing additional integration criteria for children up to 18 years of age (e.g. proficiency of the German language)” (Kreienbrink, Rühl 2007, p. 35).

In 2006, the debate was dominated by the question of whether a minimum age should be introduced for reunification with spouses. A first draft foresaw an increase in the minimum age to 21. However, no majority for a rise in the minimum age limit emerged in the discussion, so in the end a uniform limit of 18 for both spouses was adopted. Additionally, there was a discussion on the requirement to prove a basic knowledge of German pre-entry since a post-entry integration course alone was not deemed sufficient to guarantee a successful integration (Kreienbrink, Rühl 2007, p. 35).

Following these debates, and implementing the EU Directive 2003/86/EC on the right to family reunification for third-country nationals, Germany introduced the new regulation of the Immigration and Residence Act in 2007 which entails more rigid preconditions for spouses’ subsequent immigration from abroad: both spouses have to be 18 years old and the immigrating spouse has to prove evidence of basic knowledge of the German language before a visa application. If the sponsor is a third-country foreigner, he or she additionally has to show evidence of sufficient living space for him/herself and the dependent family as well as independence from social benefits (Kreienbrink, Rühl 2007).<sup>56</sup> While exceptions from these general preconditions have to be made for family reunion with Germans, no such exceptions are defined for family reunion with third-country nationals.

The proclaimed rationales for these changes have been (a) the facilitation of immigrated spouses’ and children’s integration, (b) the prevention of forced marriages as well as (c) the prevention of the misuse of family reunification. Besides, the policies implicitly aimed at (d) reducing the share of subsequently immigrating third-country national spouses, especially poorly skilled/socio-economically weak spouses with high integration needs and reduced opportunities for promoting the education and integration of their children (Lechner 2012; Scholten et al. 2012; Kreienbrink, Rühl 2007; Göbel-Zimmermann, Born 2007).

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<sup>56</sup> In 2011 the European Court of Justice decided that countries can demand integration requirements, but the right to live with the family must have priority. Ever since, different parties have requested the legal situation be revised (Deutscher Bundestag 2011a; Deutscher Bundestag 2011b; Bundeszentrale für politische Bildung (bpb) 2011). The federal government refused a revision of the law, referring to a decision of the Federal Constitutional Court in 2010, according to which the language tests do not violate European law (Deutscher Bundestag 2012; Bundeszentrale für politische Bildung (bpb) 2011).



The language requirement in particular is very contentious. Following a decision of the European Court of Justice in 2011<sup>57</sup>, the European Commission has stated in its Commission Opinion that a language requirement (as adopted by Germany and the Netherlands) is not in accordance with the Directive 2003/86/EC on the right to family reunification for third-country nationals. The Commission argues that the directive does not allow a member state to refuse entry and admission of a family member (of a third-country national lawfully resident in that member state) on the sole ground that this family member did not pass the integration exam abroad prescribed in the legislation of that member state.<sup>58</sup> This reasoning also includes language tests. Subsequently, the Federal Foreign Office has proved to be more generous regarding the language requirement. In the case of a Cameroon wife who claimed for joining her husband living in Germany, for instance, the Federal Foreign Office granted the visa for family reunion for her and her children despite the fact that she does not speak German, reasoning this decision with the Commission Opinion.<sup>59</sup> Following that, some debates have started within the parliament, in some newspapers and on the web.<sup>60</sup> Thusfar, however, no landmark court or policy decision has been made; the current law, as described above, is still valid.

### **Rationale for restricted voting rights for migrants**

In Germany, migrants have limited possibilities for political participation via Integration Advisory Councils or parties and NGO membership. Active and passive voting rights, however, traditionally depend on citizenship. Since many family migrants – at least in the first years of residence – do not have German citizenship, they are excluded from many political processes.

Since the 1980s, some academics and politicians have advocated for stronger political integration of foreigners. For this purpose, the federal state of Schleswig-Holstein enacted a law in 1989 that authorized foreigners to participate in local elections. In 1990, however, the Federal Constitutional Court declared this newly adopted law incompatible with the German Constitution (Bundesverfassungsgericht; Bauer 2007, p. 8). The Court referred to Article 20

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<sup>57</sup> Decision on the Dutch Case Mohammad Imran, C-155/11 PPU

<sup>58</sup> Commission Opinion to the European Court of Justice, 4<sup>th</sup> May 2011

<sup>59</sup> Case: BVerwG, I C 9.10 of 28<sup>th</sup> October 2011

<sup>60</sup> For official statement by the German parliament see Deutscher Bundestag 2012, for discussion in German newspapers and websites e.g. Rath 2011 and <http://www.migrationsrecht.net/nachrichten-rechtsprechung/sprachkenntnisse-ehegatte-nachzug-familienzusammenfuehrungsrichtlinie-bverwg.html>.

(2) sentence 1 of the German Constitution, according to which all state power is derived from the German people (*Volks*). Since foreign citizens are part of the German resident population, but not part of the German nation, an expansion of state power to non-German citizens would be incompatible with the German Constitution.

Thus, the legislative implementation of this project would require a constitutional amendment which needs the consent of two thirds of the members of the parliament (*Bundestag*) and two thirds of the members of the *Bundesrat* (federal council).

Since then, there have been several requests by political parties to introduce local voting rights to third-country nationals with permanent residence in Germany (Fraktion BÜNDNIS 90/DIE GRÜNEN 1999; Fraktion DIE LINKE 1999; Deutscher Bundestag 2010a; SPD Fraktion 2010; Fraktion BÜNDNIS 90/DIE GRÜNEN 2011). These proposals were discussed in parliament, yet never passed as this legislative initiative can only be decided in a cross-party consensus which, at this point, does not exist; the conservative parties refused to support such a motion (Deutscher Bundestag 2010c). Nonetheless, the topic is still on the political agenda of several parties (Bauer 2007; Storz, Wilmes 2007).

### **Rationale for granting welfare services for family migrants and for including them in the core institutions such as the labour market, education, housing and health system**

Since the 1970s, the control over rising family migration as well as the integration of family migrants has regularly erupted in German public, political and academic debates. In 1978, the office of the ‘Commissioner for the Promotion of Integration of Foreign Employees and their Families’ was instituted, demonstrating that the integration of both labour migrants as well as their dependents was officially recognized and deemed necessary. There were, however, only a few *targeted* integration offers for migrants – be they family migrants or others.<sup>61</sup>

Instead, the underlying concept and main feature of the German mode of integration has been to open core institutions (labour market, self-employment, education and training system, housing, health) to immigrants – including their family members – and to include them in the general welfare state and social policy system. This concept derives from respect

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<sup>61</sup> This situation has somewhat changed with the beginning of the new millennium, since the Immigration and Residence Act acknowledges the importance of a comprehensive integration strategy, including specific integration measures.

for human rights as well as of fundamental principles of the social order. In Germany, the social order, i.e. the system of economic, social and political relations, is the so-called *Soziale Marktwirtschaft*. “The state is a welfare state and its role is understood in an interventionist sense, i.e. to help provide social security, social justice and to improve opportunities for disadvantaged groups. The most important aspect of the welfare system for immigrant integration is that non-citizen residents are generally included in it” (Heckmann 2003, p. 55).

This German pattern of integration remains valid today. There have been, however, some attempts to restrict migrants’ access to social welfare benefits and to prolong waiting periods regarding social welfare, e.g. at the beginning of 2012, when the government feared that the economic crisis might raise immigration and misuse of the social system. The outcome of such attempts is still uncertain (see Social welfare benefits section).

### **Rationales for entitlements and obligations on participation in integration courses**

The main feature of the German mode of integration has been to open core institutions and to include migrants in it – without pursuing a targeted integration strategy. The beginning of the new millennium brought some changes. In particular, knowledge of the German language was increasingly seen as crucial for participating in the host society in general and in the labour market in particular. The ‘Independent Commission on Migration to Germany’ (called *Süßmuth Kommission*) proposed in its 2001 report the introduction of integration courses for immigrants; referring to the experiences of the Netherlands and Sweden with this type of integration method (Strik et al. 2010, p. 59). This recommendation has been translated into law: the Residence Act, implemented in January 2005, acknowledges the importance of a comprehensive integration strategy as well as the importance of language skills for integration. Under the heading ‘promoting and demanding’ (*fördern und fordern*), the “willingness” of migrants to integrate is legally demanded and new offers and obligations have been introduced: the most crucial of which are integration courses. The rationale for the course is to provide migrants “with support in integrating into the economic, cultural and social life” (section 43 (1) AufenthG). To be more precise, the “aim of the integration course is to successfully impart the German language, legal system, culture and history to foreigners. In this way, it is intended to acquaint foreigners with the way of life in the Federal territory

to such an extent as to enable them to act independently in all aspects of daily life, without the assistance or mediation of third parties (section 43 (2) AufenthG).

## 2.7 Summary

German law grants reunification rights to the nuclear family, i.e. to minor children of German citizens and foreign nationals living in Germany, to the parents of minor children living in Germany as well as to the spouses and registered same-sex partners of German citizens and foreign nationals living in Germany. Additionally, there are exceptions for cases of hardship.

The detailed regulations depend on the family tie as well as on the status of the sponsor to be joined, i.e. whether the family member to be joined is an EU citizen, a German citizen or a third-country national. Family migration to a German citizen is easier than it is to third-country nationals, since German citizens enjoy more extensive rights and have to fulfil less restrictive conditions. It is even easier for EU citizens to reunify their family, since they fall under the more generous Act on the General Freedom of Movement for EU Citizens.

In order to obtain permission to migrate to Germany, however, one has to meet several preconditions. In a nutshell: the immigrating family member has to prove basic knowledge of the German language, the resident family member has to provide evidence of sufficient living space and a secure livelihood and, in case of immigration of spouses, both spouses have to be 18 years of age. It is noteworthy that these preconditions may be waived for some groups, namely for people granted asylum/refugees on one hand, and the privileged group of highly qualified foreigners, foreign researchers and self-employed foreigners on the other. Further, it is noteworthy that the basic regulations are similar for the family reunion with Germans and third-country nationals, “exceptions” have to be made for the family reunion with Germans who are not able to meet the preconditions.

In addition, there are some restrictions facing family migrants after they have entered the country which have been described. The two pivotal ones are: first, third-country nationals are not entitled to vote as they do not have German citizenship. Second, there are restrictions regarding social welfare benefits: while third-country nationals who are not capable of working (e.g. due to age or illness), can get financial assistance immediately after arriving in Germany, migrants who are able to work but unemployed cannot obtain any

financial assistance within their first three months of stay in Germany. This also holds true for their spouses and children. And a third-country national is not entitled to receive any benefit if his/her stay is for the purpose of looking for work. Again, this also holds true for the family members.

One has to note, however, that family migrants' rights do not depend on their status as family migrants *per se*, but rather are conditional (in the same way as for other migrants) on the kind of residence title they have. Once a family migrant has got his/her residence or settlement permit there is hardly any specific regulation for him/her; family migrants have the same duties and restrictions as other foreigners have – and in several aspects, they have the same legal rights as German citizens.

## 3 Quantitative evidence: family migration and the integration of family migrants in Germany

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This chapter, based on Lüken-Klaßen (2013a), explores quantitative findings regarding family-related migration to Germany and the integration of family migrants in German society. The information is based on official statistical data as well as survey data, as described below.

Chapter 3.1 provides information on the data sources used to describe the trends of family migration as well as the integration of family migrants in Germany. An overview on the size and trends of family migration, including the composition of the group of family migrants, is given in 3.2, while chapter 3.3 focuses on the integration of family migrants. Chapter 3.4 summarizes major results.

### 3.1 Data sources

The statistical data used to present the trends of family migration in Germany in this report originates from two official data sources: the visa statistics of the Foreign Office and the Central Foreigners' Register (*Ausländerzentralregister*, AZR). Data sources for analysis of the integration of family migrants in Germany are the Immigrant Citizens Survey (ICS) as well as publications by the Goethe Institute and the Federal Ministry of the Interior (*Bundesministerium des Innern*).

Information on the data sets as well as on the descriptive and multivariate calculations done with these is given in the following, before presenting the results in chapter 3.3.

#### 3.1.1 Demographic population data

The demographic population data used in this report for the mapping and analysis of family-related migration to Germany are the visa statistics of the Foreign Office (VISASTAT) and the Central Foreigners' Register (*Ausländerzentralregister*, AZR).

### **(a) The visa statistics of the Federal Foreign Office**

Since 1996, the visa statistics of the Federal Foreign Office register all cases in which a German embassy approved a spouse's or dependent's application for family migration.

However, the visa statistics do not register the nationality of the applicant, but only the place where the application was filed. Further, the whole range of family migration is not completely represented by these statistics. Firstly, the visa statistics only register the subsequent immigration of spouses and children, not of other dependents such as parents. Secondly, migrants can initially enter Germany for a purpose other than family reasons, such as holiday or employment (with a tourist or work visa), but then acquire a residence permit due to family reasons. These cases of family migration are not registered by the visa statistics (Bundesministerium des Innern 2013, p. 100). And thirdly, Germany has established a customs union with some states so that their citizens have the right to travel to Germany without a visa and may apply for a residence permit only after they have entered the country (section 41 AufenthV).<sup>62</sup> Thus, family migration of members of respective states is also not reflected in the visa statistics.

Nonetheless, the statistics provide a useful overview on trends and basic patterns of family-related migration to Germany (see below).

### **(b) Central Foreigners' Register**

A more comprehensive data base is found in the Central Foreigners' Register (*Ausländerzentralregister* – AZR). This register, managed centrally by the Federal Office, contains information about foreign nationals living in Germany. Since 2005, it records the total number of residence permits granted as well as the “purpose of residence”, which includes family reasons. The Central Foreigners' Register can thus give evidence on the amount of family immigration in a given year. As explained above, the figures of the Central Foreigners' Register are consistently greater than the number of granted visas by the Foreign Office.

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<sup>62</sup> This is the case for citizens from Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand and the USA; comparable agreements exist for citizens from Andorra, Honduras, Monaco and San Marino (section 41 AufenthV).

Beyond the pure numbers, the Central Foreigners' Register imparts some insights into the dependent immigrant (e.g. nationality, gender and age) as well as some information on the sponsor.

In order to maintain data protection, the Central Foreigners' Register is unavailable to the public, even for research purposes. Some secondary analyses, however, are publicly available and some specific analyses can be requested. Thus, as will be seen, meaningful information can be gathered on migration trends of family migrants in Germany, as well as on family migrants' gender, nationality and age.

### 3.1.2 Survey and publication data

The data sets used in this working paper are: the Immigrant Citizens Survey (ICS), conducted in 2012, as well as publications of the Goethe Institute<sup>63</sup> and the Federal Ministry of the Interior (*Bundesministerium des Innern*). The first two data sets concentrate on integration in general, whereas the latter focuses on specific issues such as language and integration courses.

#### **(a) Immigrant Citizens Survey 2012**

The Immigrant Citizens Survey (ICS) provides data on migrants and integration of third-country nationals in Germany. Based on descriptive and multivariate calculations conducted for this report with the original SPSS data file, it is possible to compare the integration of family migrants with that of other migrants in the fields of employment, education and civic participation. Particularly, multivariate logistic regressions were conducted to analyse whether differences in integration between family and other migrants can be attributed to the respondent's migrant status or to other important influences.

Before the respective results on the integration of family migrants are presented, some information on the data base is given in the following.

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<sup>63</sup> The Goethe-Institut is a worldwide operating culture institute by the Federal Republic of Germany, which supports the knowledge of the German language and the international cultural cooperation.



## Description of data set “Immigrant Citizens Survey (ICS)”

In order to evaluate the immigration of Non-EU/Non-EEA<sup>64</sup> nationals in Europe, the King Baudouin Foundation (KBF) and the Migration Policy Group (MPG) organized the so-called “Immigrant Citizens Survey (ICS)”. The survey was conducted between October 2011 and January 2012 in seven European countries, Germany included. Co-funders are the European Commission, the Fundação Calouste Gulbenkian and the Oak Foundation. The German project partner has been the Research Unit of the Expert Council of German Foundations on Integration and Migration (*Sachverständigenrat deutscher Stiftungen für Integration und Migration* – SVR).

The German sample of the Immigrant Citizens Survey contains 1,202 Non-EU/Non-EEA nationals living in Stuttgart or Berlin; the sample was randomly chosen from the population registers of these two cities with persons who are 15 years or older, hold a non-EU/non-EEA citizenship, have lived longer than one year in the city and are registered as coming from abroad.

Most of the migrants in the sample came to Germany as adults (67.7%) and around a third as minors, i.e. under the age of 18 years (32.3%); only 1.4% of the migrants in the sample (17 persons) stated that they came to Germany under the age of one or were born in Germany.

More than half of the 1,202 respondents (695) reported that they obtained their first resident permit for the purpose of family reunification. These respondents are labelled ‘family migrants’. Additionally, there are 484 respondents with another type of residence permit.<sup>65</sup> These respondents are labelled ‘other migrants’.

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<sup>64</sup> European Economic Area, i.e. the countries of the European Union (EU) plus Iceland, Liechtenstein and Norway, allowing the respective states to participate in the EU’s internal market without being members of the EU.

<sup>65</sup> Of the 484 respondents with another type of residence permit, 201 migrants came for work, 86 for study, 161 due to humanitarian reasons and 34 have another legal residence permit status (not specified). Two persons do not have a legal status or are undocumented. Further, 23 respondents refused to answer or did not know. These cases are not included in the comparison between family migrants and others.

## Characteristics of migrants participating in the “Immigrant Citizens Survey (ICS)”

The **countries of origin** of most respondents are Turkey (34.6%), the former Soviet Union (8.1%) or countries of former Yugoslavia (Croatia: 8.3%, Bosnia and Herzegovina: 7.7% and Serbia including Kosovo: 6.1%).

This general distribution of respondents’ countries of origin also holds true for the two groups compared in this study (family migrants on the one hand and migrants with another type of residence permit on the other). However, the composition within each group differs slightly. Out of the family migrants asked in the survey, 45.2% stated that they originally came from Turkey, whereas only 18.8% of respondents in the category of ‘other migrants’ named Turkey as their country of origin, although they still represent the dominant group. Additionally, the group of other migrants is more diversified in terms of country of origin. The top five countries of origin, however, remain the same. For further details, see Table 1.

**Table 1: ICS respondents according top five countries of origin and migration status**

Origin	Total	Family migrants	Other migrants
Turkey	34.6%	45.2%	18.8%
Croatia	8.3%	9.5%	6.4%
Former Soviet Union	8.1%	8.2%	7.6%
Bosnia and Herzegovina	7.7%	5.6%	10.7%
Serbia including Kosovo	6.1%	4.2%	8.9%

Source: efms, own calculations based on ICS Germany

Today, 17.9% of the interviewed family migrants have German **citizenship** (either as single or dual citizenship), compared to 10.7% of the other migrants.

Regarding the age of the respondents, the distribution of **age** groups is similar for both family migrants and other migrants; the mean age is approximately 39 in both categories.<sup>66</sup>

However there are further differences between these two groups. First, the **gender ratio** is not balanced. Females are overrepresented in the group of family migrants (63.5% female), while underrepresented in the group of other migrants (39.0% female).

Second, the **age at the time of arrival** differs: While 43.6% (321 persons) of the family migrants immigrated to Germany as minors (17 years and younger), only 15.3% (372 persons) of the other migrants arrived at that age. On average, family migrants were 20 years old when immigrating, whereas respondents with another type of residence permit were 27. Also, the **length of stay** differs between the two groups: the average length of stay in Germany is 18 years for family migrants<sup>67</sup> and 14 years for others.

**Thus, on average, family migrants immigrated at a younger age and spent more of their lifetime in Germany than other immigrants.** These two findings might have a positive impact on integration. However, the length of stay is considerable in both groups: the vast majority of family migrants have lived in Germany for up to 30 years (88.7%) and the majority of the other migrants for up to 20 years (83.0%).

## **(b) Studies on the effects of language knowledge and integration courses**

Findings regarding language knowledge (as pre-entry condition as well as a issue measuring integration) and success of integration courses are delivered by studies of the Goethe Institute<sup>68</sup> and the Federal Ministry of the Interior (*Bundesministerium des Innern*) in cooperative with the Rambøll Management Consulting GmbH as well as some other studies (for example conducted by the Social Science Research Center Berlin (*Wissenschaftszentrum Berlin für Sozialforschung* (WZB))).

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<sup>66</sup> The mean of age of family migrants that entered Germany at minor age is 30 years, while it is 40 for those entering as adults.

<sup>67</sup> Mean of length of stay for family migrants entering as minors: 23 years; mean of length of stay for family migrants entering as adults: 14 years.

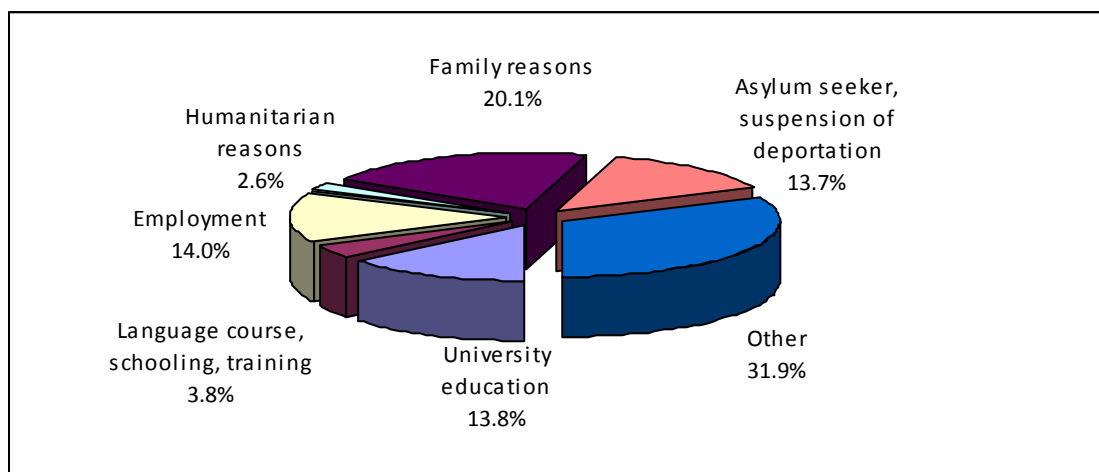
<sup>68</sup> The Goethe-Institute is a worldwide operating culture institute by the Federal Republic of Germany, which supports the knowledge of the German language and the international cultural cooperation.

## 3.2 Trends of family migration in Germany

During the period of active labour recruitment, family-related migration was already a substantial source of immigration to Germany (Heckmann, Schnapper 2003). However, the German state has only officially registered family migration as a separate type of migration since 1996.

Family migration is the major immigration channel for third-country nationals to Germany. According to the Central Foreigners' Register (AZR), 54,031 residence permits were granted for family reasons in 2011; a fifth (20.1%) of the 265,728 immigrated third-country nationals in that year. Quantitatively, family migration was the principle reason for obtaining a residence permit in 2011 (Bundesministerium des Innern 2013, pp. 35f). The other quantitatively important purposes for acquiring a residence permit in 2011 were employment (14.0%) and university education (13.8%), as well as applying for asylum or suspension of deportation (13.7%).<sup>69</sup>

**Figure 1: Immigration of third country nationals and their purpose of residence (2011)**



Source: efms, based on Bundesministerium des Innern 2013, pp. 35f

<sup>69</sup> "Other" includes inter alia: granted settlement permits, third-country nationals under EU-right of residence, applicants for a residence permit and third-country nationals not needing a residence permit (Bundesministerium des Innern 2013, pp. 35f).

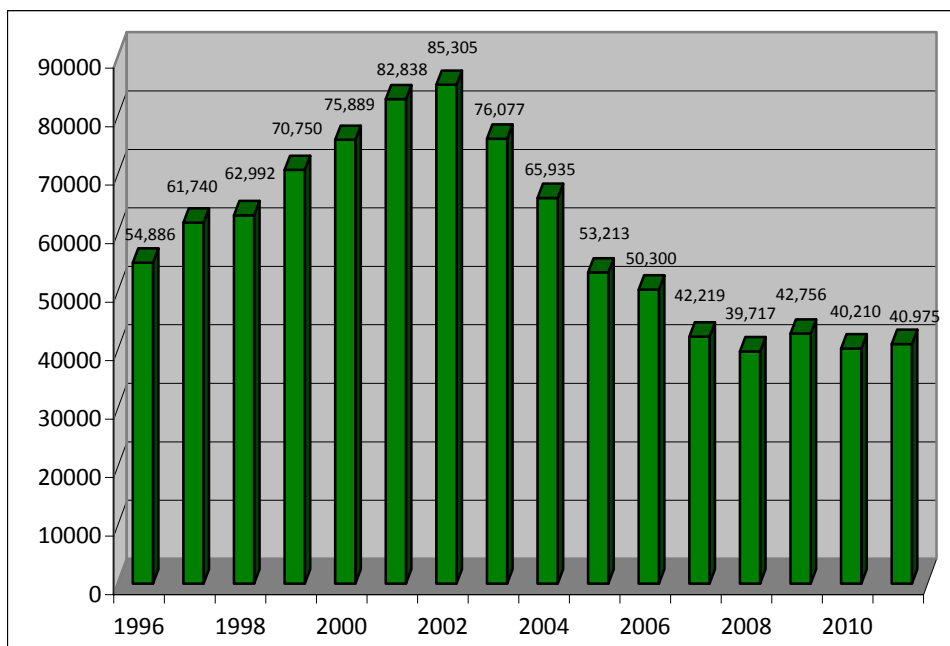
### 3.2.1 The development of family migration to Germany

As mentioned, the Central Foreigners' Register (AZR) is the more comprehensive data base. Since it only dates back to 2005, however, the data on the development of family migration spanning the years from 1996 to 2011 is firstly shown on the basis of visa statistics. Afterwards, the more detailed and up-to-date figures are given on the basis of the Central Foreigners' Register.

In 1996, 54,886 visas were approved (Rühl, Lederer 2001, p. 25). After a continuous increase in family migration up to 85,305 visas in 2002, the visa statistics show a steady drop in numbers of visas issued until 2008, when 39,717 visas were issued. Since 2009, the number of visas has re-increased slowly; in 2011, a total of 40,975 visas for family migration were issued (Bundesministerium des Innern 2013, p. 222) (see Figure 2).

Overall, the number of issued visas remains clearly below the former number before introducing the new legislation. And in comparison with the maximum of 85,305 visas for spouse immigration in 2002, the number of issued visas has halved (Bundesministerium des Innern 2013, p. 222).

**Figure 2: Visas for family migration (1998 to 2011)**



Source: efms, based on Rühl, Lederer 2001, p. 25; Bundesministerium des Innern 2012b, p. 112,

original data of visa statistics of the Foreign Office Bundesministerium des Innern 2013, p. 222

The decrease reflects the effects of the provision of pre-entry German language skills for immigrating spouses which came into force in August 2007. The decline in the number of visas can further be explained by the EU accession of the twelve new member states in 2004 and 2007, since EU citizens, enjoying the right of free movement, do not need a visa for family migration (Kreienbrink, Rühl 2007; Bundesministerium des Innern 2013, pp. 100f).

### 3.2.2 The composition of family migrants

The range of family migrants is a very heterogeneous group; it varies regarding sex, origin, family structures and age, as is described below.

#### **Family migration: a gendered immigration channel**

The distribution of family migrants can be differentiated into migrating spouses, migrating children, migrating parents and others. In the last decades, by far most of the family migrants have been spouses; mainly women (Kreienbrink, Rühl 2007, p. 48; Bundesministerium des Innern 2013, pp. 105ff).

In 2011, half of the residence permits for family reasons (49.8%) were issued to wives (26,827 in total) while about a fifth of the permits were issued to husbands (11,150 or 20.6%). Children joining their parents make up 22.0% of family migrants (11,877 children)<sup>70</sup> and migrating parents joining their children make up 7.3% (3,949 parents), most of whom have care and custody of a German minor child. The share of other dependents is 0.4% (228 persons) (Bundesministerium des Innern 2013, pp. 105f).

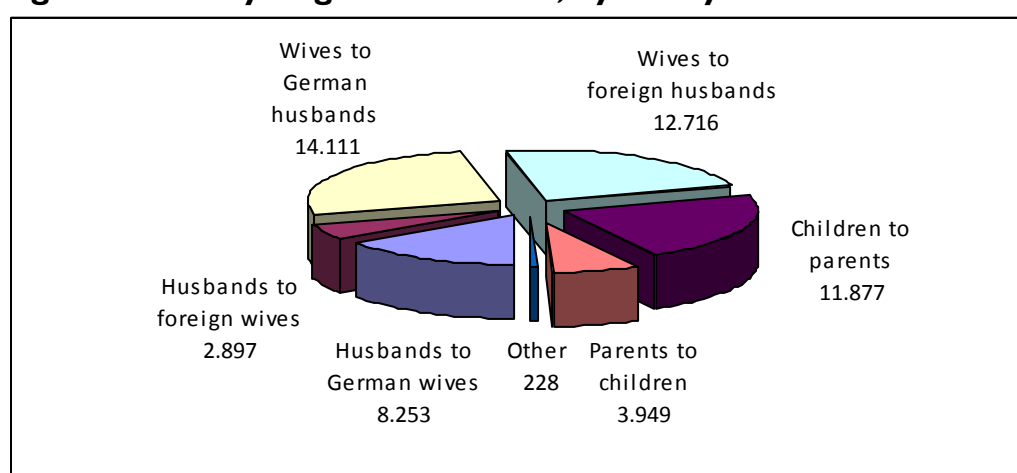
Until 1999, most spouses who immigrated to Germany did so in order to join a foreign partner. In 1996, for instance, about two thirds of immigrating spouses joined a foreign partner, while one third joined a German one (Rühl, Lederer 2001, p. 25). Since 2000, by contrast, the number of reunifications with German spouses has exceeded that of

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<sup>70</sup> Roughly half of the children joining third-country nationals immigrate together with their parents, while the other half immigrates alone in order to unify with their family in Germany (Bundesministerium des Innern 2013, pp. 106, 108).

reunifications with foreigners, as recorded in the visa statistics of the Foreign Office (Kreienbrink, Rühl 2007, p. 39; Bundesministerium des Innern 2013, p. 101). In 2011, 58.9% of spouses who acquired a residence permit for family reasons joined a German spouse, while accordingly the remaining 41.1% of spouses joined a foreign husband or wife (Bundesministerium des Innern 2013, p. 107) (see Figure 3). This development is partly due to the increased naturalisation rate as well as subsequent immigration to (late) ethnic German re-settlers (*Spätaussiedler*) (Bundesministerium des Innern 2013, p. 106).

**Figure 3: Family migration in 2011, by family member**



Source: efms, based Bundesministerium des Innern 2013, p. 107, original data of the Central Foreigners' Register (AZR)

The chart displayed in Figure 3 further categorizes migrating spouses by sex, which allows for comparisons of migrating patterns between genders. Only slightly more than half of migrating wives joined a German husband (14,111 joined a German, 12,716 a foreign husband), while the husband group is less balanced: the vast majority of male spouses joined a German wife (8,253), compared to 2,897 husbands who joined a foreign wife (see Figure 3). The varying gender behaviours can be explained with different family structures and different migration patterns as described below.

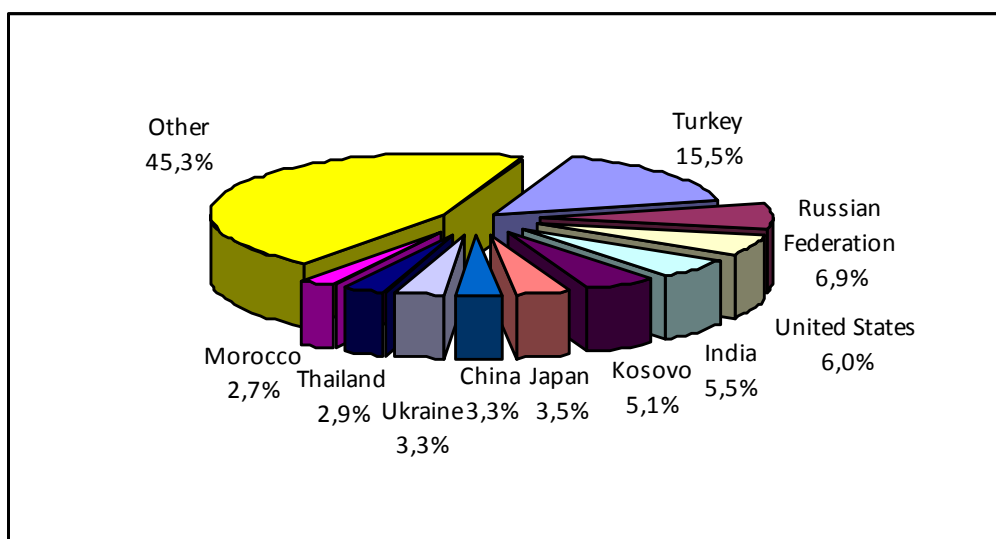
### **Nationalities of family migrants**

The largest group of family migrants from one country originate from Turkey. This trend has held true since family migration was first registered as a separate type of migration in 1996.

However, the number of visas granted in Turkey for the purpose of family migration has fallen steadily from 25,068 in 2002 to 7,702 visas in 2011 (Bundesministerium des Innern 2013, p. 222). The data from the Central Foreigners' Register (AZR) underscores this information: the percentage of residence permits for family reasons granted to Turkish nationals dropped from 10,195 in 2006 to 8,363 residence permits for family reasons in 2011 (i.e. from 18.1% in 2006 to 15.5% in 2011) (Bundesministerium des Innern 2013, p. 106; Bundesamt für Migration und Flüchtlinge (BAMF) 2007, p. 111). Nevertheless, Turkish nationals still constitute the largest group of family migrants in Germany.

Turkish nationals are followed at a considerable distance by citizens of the Russian Federation (6.9%), the United States (6.0%), India (5.5%) and Kosovo (5.1%). Other significant countries of origin (in terms of numbers) are Japan, China, Ukraine, Thailand and Morocco (between 3.5% and 2.7% each) (Bundesministerium des Innern 2013, p. 106).

**Figure 4: Family migration in 2011, by nationality**



Source: efms, based on Bundesministerium des Innern 2013, p. 106, original data of the Central Foreigners' Register (AZR)

### **Composition of family members by nationality**

Within these eleven groups of nationalities, the composition of family members differs considerably. In the case of Turkey and India, for instance, there is considerable migration to



German partners, but foreign spouses joining a partner with a non-German nationality (i.e. Turkish or Indian respectively) are predominant (both men and women regarding Turkey; largely men regarding India). By contrast, especially in the cases of family migrants coming from the Russian Federation and Thailand, the vast majority are wives joining a German husband (Bundesministerium des Innern 2013, p. 107).

A further difference is the share of children that is low in some groups while it is rather high in others: about a third of the US American family migrants as well as about a third of the Indian family migrants were children (Bundesministerium des Innern 2013, p. 107).

About half of the children immigrated together (and not subsequently) with their parents. This is overproportional in the case of family migration from the USA (65%), Japan (65%), the Republic of Korea (65%) and India (58%) (Bundesministerium des Innern 2013, p. 106).

The variations in the composition of family members can be explained by differences in the situation of the country of origin, in naturalization rates as well as by family structures and migration patterns. As Kalter and Schroeder summarize (2010, p. 13), differences in marriage behaviour might be explained with individual preferences, influences of the social group and with structural restrictions in the marriage market.

Firstly, one has to consider that some differences between nationalities are not as they seem. Regarding some nationalities, the family reunion with German nationals could be a reunification with a person who has the same ethnic background as the migrant, but was naturalized. These bi-national but intra-ethnic marriages often occur in the case of Turkish migrants (Haug 2010, p. 36; Bundesministerium des Innern 2013, p. 102).

Similarly, regarding Russians, Kazakhs and Ukrainians joining German husbands, a considerable part migrate to naturalized migrants of the same ethnic background. In this case, Eastern European family migrants are often naturalized Russians, Kazakhs or Ukrainians with German roots (termed *Aussiedler* or *Spätaussiedler*). However, classical inter-ethnic marriage migration also exists within this group (Bundesministerium des Innern 2013, pp. 104, 106; Haug 2010, pp. 36 et seq.).

Besides family migration of wives from Eastern Europe, family migration out of Eastern Asia and Latin America can often be seen as inter-ethnic marriage migration (Haug 2010, p. 38). Glowsky explains these marriages between German men and women from less developed countries with an age-related marriage squeeze: for men older than 30 years, it is easier to

marry attractive women when they opt for partners from poorer countries (Glowsky 2008, pp. 17f).

By contrast, family migration from India, Japan, the USA and the Republic of Korea is mostly accompanied or tied migration of wives and children to male labour migrants; i.e. these families are mainly immigrating for the purpose of employment (Bundesministerium des Innern 2013, pp. 106 et seq.).

### **Age composition of family migrants**

The bulk of family migrants are between 21 and 64 years of age. In 2011, 43,578 (75.5%) of the family migrants belonged to this age group. Only 374 persons (i.e. 0.6%) were aged 65 and above. 8,832 (15.3%) family migrants were children below the age of 12, 3,219 (5.6%) were adolescents between 12 and 17 years old and 1,701 (2.9%) family migrants were young adults between 18 and 20. The male to female ratio in the various age categories does not seem to differ significantly (original data of the Central Foreigners' Register (AZR), delivered upon request).

**Table 2: Family migration in 2010 and 2011, by age groups**

Age groups	2010	2010	2011	2011
	Total	Female	Total	Female
Not known	2	2	1	1
Below 12	7,927	3,978	8,832	4,354
12 – 17	3,499	1,699	3,219	1,541
18 – 20	1,182	901	1,701	1,407
21 – 64	44,478	30,754	43,578	29,865
65 and older	402	241	374	211
<b>Total</b>	<b>57,490</b>	<b>37,575</b>	<b>57,705</b>	<b>37,379</b>

Source: data of the Central Foreigners' Register (AZR), date of 31.12.2012, delivered upon request by efms

### Geographical concentration of family migrants

The geographical concentration of family migrants is likely comparable to that of other migrants. Overall, both in absolute and relative terms, many more migrants live in the Western than in the Eastern federal states.<sup>71</sup> Furthermore, the share of persons with a migration background is much higher in cities and agglomerations than it is in rural areas. In the latter, i.e. in municipalities with less than 5,000 inhabitants, 7.5% of the population have a migration background (data of 2010). In cities with 5,000 to 20,000 inhabitants, the share is at 14.8%, in cities with 20,000 to 100,000 inhabitants, it is at 20.8% on average, and in cities with more than 100,000 inhabitants, the share rises up to 27.3% (Statistisches Bundesamt 2011, p. 40).

<sup>71</sup> In absolute terms, most persons with a migration background live in the federal states of North Rhine-Westphalia, Baden-Württemberg and Bavaria. The highest share of persons with a migration background can be found in the federal states of Hamburg (26.3%), Bremen (25.6%), Baden-Württemberg (25.3%), Hesse (24.1%), Berlin (23.8 %) and North Rhine-Westphalia (23.4%). With 28.6% and 27.6% respectively, the share of persons with a migration background is the highest in the administrative districts (*Regierungsbezirke*) of Stuttgart and Darmstadt (Rhine-Main-Area). The respective percentage in the Eastern states is much lower: 4.8% (data of 2007) (Rühl 2009, p. 27).

### 3.3 The integration of family migrants in Germany

This chapter deals with the integration of family migrants in Germany. First, findings regarding political and civic participation are presented, followed by analyses regarding employment, education and language knowledge, as well as effects of integration courses.

Most of the following results are based on calculations with the Immigrant Citizens Survey (ICS): the original data file has been used in order to analyse (via multivariate logistic regressions) whether differences in integration between family and other migrants can be attributed to the respondent's migrant status or to other influences.

Additionally, studies of the Goethe Institute and the Federal Ministry of the Interior have been used in order to get more information regarding the effects of integration courses (of which most participants are family migrants) as well as language knowledge of family migrants.

#### 3.3.1 Political and civic participation

According to the ICS, there are no significant differences between family migrants and other migrants with regard to political and civic participation: 56.6% of all ICS-participants show interest in voting and stated that they would vote if there was a general election tomorrow in Germany, without difference between family migrants and others.

Some of the migrants participating in the ICS not only have third-country nationality, but also German citizenship.<sup>72</sup> Thus, they have the right to vote. Slightly more than half of respondents in this category reported that they voted in the last election. There is no difference in voter turnout between family migrants (55.6%) and migrants with another type of residence permit (54.3%).<sup>73</sup>

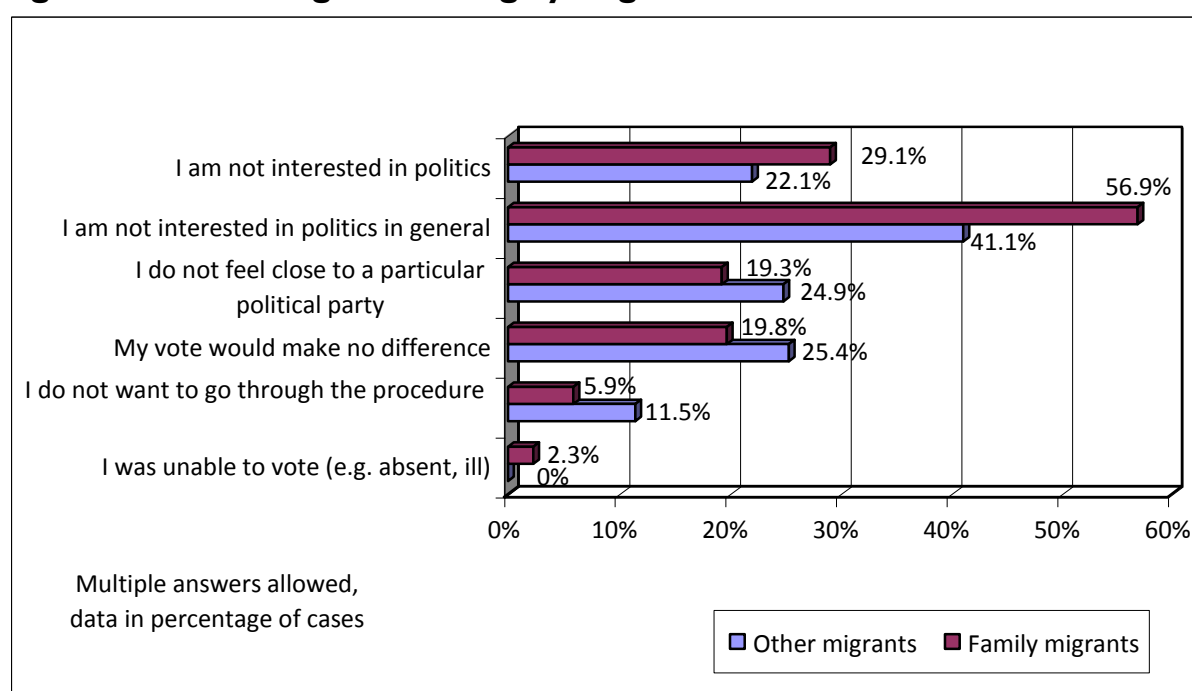
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<sup>72</sup> As the sample was generated from the population registers in Berlin and Stuttgart using the present citizenship as selection criteria, it was not possible to use the country of birth for sampling. As a result, naturalized foreigners are only "accidentally part of the sample and neither their share in the sample nor their experiences with naturalization are representative" (King Baudouin Foundation, Migration Policy Group 2012, p. 3).

<sup>73</sup> The general population turnout is somewhat higher: the voter turnout in the last elections in Bavaria (2008) lay at 58% (Bayerisches Landesamt für Statistik und Datenverarbeitung 2008), on the national level at 71%

There are no important differences between family migrants and other migrants with regard to reasons for not voting. For both groups, the main reasons are the missing interest in city politics (29.1% among family migrants vs. 22.1% among other migrants) and/or politics in general (56.9% vs. 41.1%), no identification with a particular political party in Germany and/or the assessment that their vote would not make any difference. Several respondents indicated that they did not want to go through the procedure (e.g. too hard, complicated, long, expensive). Only a small percentage (2.3% of the family migrants and 0% of other migrants) stated they were unable to vote (e.g. absent, ill).

**Figure 5: Reasons against voting by migration status**



Source: efms, own calculations based on ICS Germany

29.0% of all ICS participants expressed interest in applying for German citizenship (a precondition for voting), without striking differences between family migrants (27.7%) and migrants with another type of residence permit (30.6%).

A very small percentage of all respondents do participate in a political party, a trade union or an immigrant organization (below 2% each). However, 20.1% of all survey participants belong to another organization or association in Germany such as sports, cultural, social, religious, local, professional, humanitarian or environmental (22.6% of family migrants and 17.0% of others).

(2009) (Statistisches Bundesamt 2010, p. 5). Real voter turnout cannot, however, be compared seriously with inquired voter turnout.

**To summarize, regarding political and civic participation the ICS shows no differences between family migrants and others.**

### 3.3.2 Employment

The migrants participating in the ICS survey were asked about their economic circumstances. Furthermore, they were asked about the extent to which their diplomas and other qualifications earned abroad were recognized in the job market as well as about experiences of discrimination in the labour market.

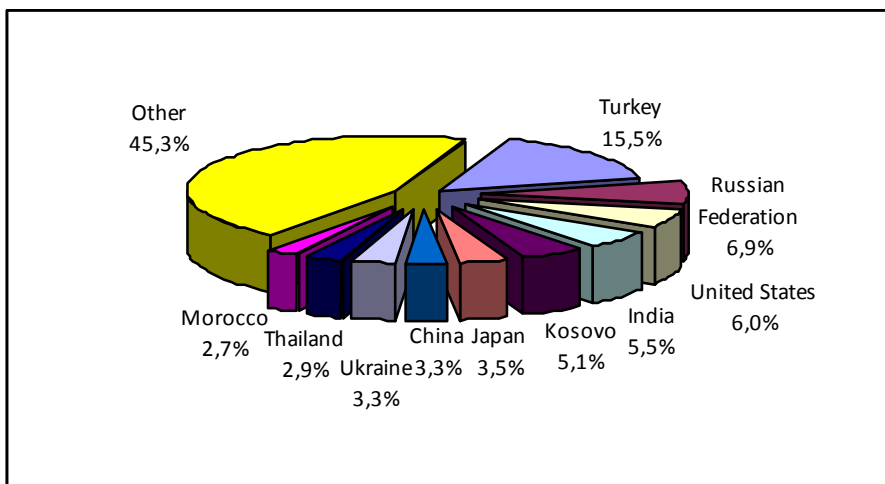
#### **Employment situation**

Regarding **economic status**, some similarities as well as slight variations can be found in the ICS data among family migrants and other migrants.

The share of migrants “**in paid work** or away temporarily (employee, self-employed, entrepreneur, working for your family business)” is very similar: 53.2% of family migrants and 55.2% of migrants with another type of residence permit fall into this employment category.

Family migrants are more often “unemployed or permanently sick or disabled” than other migrants: 16.0% of family migrants compared to 11.3% of other migrants. But logistic regression analysis shows that these differences do not depend on whether the migrant is a family migrant or a migrant with another status. Controlling for further variables while analysing the effect of migrant status (family migrant or other migrant) on employment status reveals that being unemployed or permanently sick or disabled instead depends on level of education, language knowledge and age at time of migration. By contrast, the share of “retired” migrants is somewhat smaller among family migrants than among other migrants (5.2% vs. 8.5%).

**Figure 6: Economic situation by migration status**



Source: efms, own calculations based on ICS Germany

More distinct differences can be found in the categories of household and care work, and education. The proportion of family migrants occupied with care work and housework for household members (17.6%) is much higher than for migrants with another type of residence permit (3.8%). Regarding educational status, a greater share of non-family migrants (18.4%) than family migrants (10.2%) was in education at the time of the interview. These variations in household involvement and present educational status between family migrants and others persist when controlled for gender, origin (Turkey versus other), education (highest level of education in years), language knowledge<sup>74</sup>, length of stay in Germany and age at time of migration in the logistic regression analysis.<sup>75</sup>

The “**type of work organisation**” does not differ significantly between family migrants and others: approximately 68% are engaged in a private firm. Around 13% of all respondents are employed in the public sector (education, health, state-owned enterprise, central or local government), while self-employed (including entrepreneur and family-owned business) are 10% of the family migrants and 14% of the other migrants. The percentage of respondents working in not-for-profit organizations is minor, around 1%.

Slightly more than half of the migrants think that their **job matches their skills and training**: 55.5% of family migrants and 57.3% of migrants with another type of residency classification.

<sup>74</sup> Which was evaluated by the interviewer, categorized as ‘fluently’ or ‘non-fluently’.

<sup>75</sup> Otherwise, 1.2% of family migrants and 0.6% of other migrants stated they were in “another” economic situation.

Of the respondents who applied to have foreign educational qualifications formally recognized, family migrants seem to experience greater difficulties in the **recognition of qualifications** than other non-EU/non-EEA nationals. While 83.1% of non-family migrants who applied reported that qualifications were fully or partially accepted, only 60.5% of family migrants reported the same results. However, when controlled for gender, origin, highest level of education, length of stay in Germany, age at time of arrival and current language knowledge, these differences do not depend on being a family migrant or not.<sup>76</sup>

At first glance, several variations seem to exist between family migrants and other migrants with respect to integration into the labour market. However, when controlled for confounding variables, other factors such as gender and age at time of arrival reveal more significant correlations than whether one is a family migrant or otherwise. An exception to this conclusion arises in housework and educational status, as more family migrants are involved in housework and fewer were in education at the time of the survey than other migrants.

### **Discrimination in employment and difficulties in the job search**

When asked whether they agree that “employers often **do not accept (...) qualifications and experience**”, 7.7% of family migrants versus 13.2% of migrants with another status agreed. Within the group of family migrants, there is a large disparity between those that came to Germany as children and those that came as adults. Of the family migrants who entered Germany as minors, only 2.6% reported this problem, while 12.0% of those who migrated to Germany as adults reported the non-acceptance of qualifications and experience.<sup>77</sup> Approximately one fifth of all respondents reported **language difficulties** as an obstacle to finding a job: 20.3% of family migrants and 16.0% of others. A multivariate logistic regression analysis affirms, however, that the observed differences in job search problems related to qualifications recognition or language difficulties are not significantly correlated to being a family migrant or migrant with another status. Instead, these

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<sup>76</sup> Attention should be paid to the fact that the sample for respondents which applied for recognition is rather small (n=103) for logistic regression analysis.

<sup>77</sup> When interpreting this data, however, one has to consider the small sample size for this category of only 51 family migrants and 61 other migrants responding. Of the family migrants, 43 respondents immigrated as adults, only 8 as children.



differences can be explained by age at time of arrival and language knowledge at time of the interview.

Approximately a quarter of all respondents reportedly had problems in finding a job because employers offered **only temporary or short-term job contracts** (irrespective of residence permit) and fewer than a dozen stated that employers offered a **job only without a legal job contract** (11.9% of the family migrants and 8.8% of the other migrants).

Around 17% of the migrants interviewed reported they were confronted with **discrimination** in the context of finding a job, with no differences between family migrants and migrants with another type of residence permit.

**To summarize**, while several respondents reported various difficulties in the field of employment, the majority of the interviewed migrants stated they had not encountered problems in the labour market. Regarding the reported problems, family migrants' and other migrants' experiences appear to diverge. Despite this appearance, there are indeed **no significant differences** when controlled by gender, age at migration, origin, length of stay in Germany, education and current language knowledge in the logistic regression analysis. This result is unsurprising, given the fact that there are no specific regulations for family migrants' access to the labour market in Germany.

### 3.3.3 Education

The migrants participating in the ICS study were asked about their level of education as well as any participation in and assessment of integration courses. Further, the interviewers were instructed to assess the respondents' language level.

#### **Level of education**

Education was measured in great detail, based on the International Standard Classification of Education (ISCED). Answers can be categorized in a seven-item scale ranging from (0) preschool education, (1) primary education, (2) lower secondary education, (3) upper secondary education, (4) post-secondary non tertiary education, (5) tertiary education to (6)

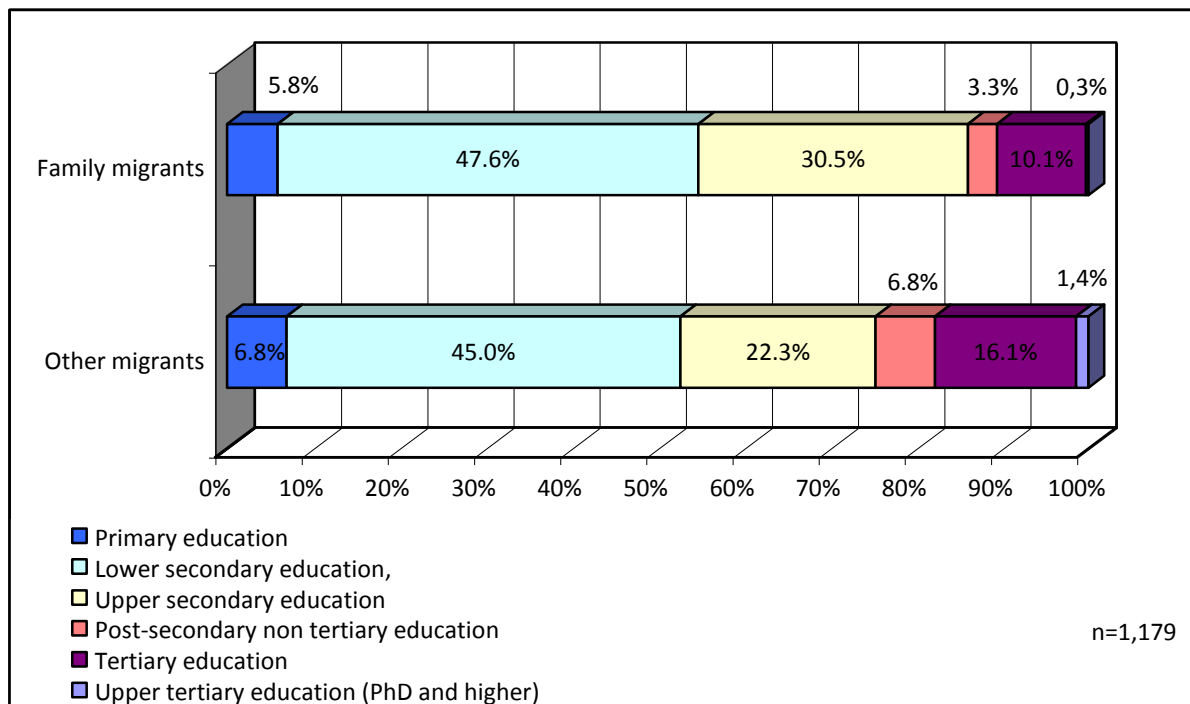
upper tertiary education (PhD and higher). The scale can be subdivided further into general and vocational qualifications on each level.

If one compares family migrants' and other migrants' highest level of education irrespective of place of acquisition (Germany, home country or another country) and of time of arrival in Germany, there are no striking differences between the two groups.

The average years of education are almost the same in both groups (family migrants: 11.2 years vs. other migrants: 11.7 years). The majority of all migrants (46.2%) have qualifications from lower secondary programmes. However, family migrants hold qualifications from vocational upper secondary education more often than other migrants (14.2% vs. 3.9%). At the same time, they are less likely to have qualifications from a tertiary and upper tertiary education programmes (10.4% vs. 17.5%).

The difference in educational patterns between these two groups of migrants is greater when examining those who immigrated to Germany **as adults**. Of all migrants immigrating to Germany as adults, family migrants seem to have less education than other migrants. While 71.5% of family migrants hold qualifications from lower secondary education and below, this share is smaller among other migrants (52.7%). Moreover, family migrants who arrived as adults in Germany hold fewer qualifications from post-secondary education (3.1% vs. 9.3%) and are also less likely to hold qualifications from tertiary and upper tertiary education programmes (8.7% vs. 18.5%) than other migrants.

**Figure 7: Education by migration status**



Source: efms, own calculations based on ICS Germany

**To summarize, family migrants less often possess tertiary education than migrants with another migration status.** This difference also remains statistically significant in the multivariate logistic analysis controlling for gender, age at migration, origin, length of stay in Germany, education and current language knowledge.

### 3.3.4 Language knowledge

Sufficient language knowledge is not only a part and aim of integration courses to enhance integration; language proficiency plays an important role for family migrants still at the beginning – as pre-condition for their admission: since August 2007, spouses from abroad receive a residence permit only if they can prove basic language skills.

## Language knowledge as pre-entry condition

Since 2005, the integration policy in Germany has emphasized language integration<sup>78</sup>. With the entry into force of the Directives Implementation Act on 28 August 2007, spouses of a German or a third-country national living in Germany have to prove sufficient language proficiency (at least level A1 of the Common European Framework of Reference for Languages) as a condition for their admission<sup>79</sup>.

The introduction of this new regulation, claimed as preventing forced marriages and facilitating the integration process (Bundeszentrale für politische Bildung (bpb) 2011), has been criticized by the political opposition and by NGOs and still is the subject of controversial debate. In particular regarding family reunification with the spouse, the European Commission considers the evidence of language skills as a precondition for family reunification to be unlawful (Bundeszentrale für politische Bildung (bpb) 2011; Lüken-Klaßen 2013). Besides, there is some debate about the influence of pre-entry language proficiency proof on the number of applications for visa (Strik et al. 2010, p. 32; Perchinig 2012, p. 72; Scholten et al. 2012, p. 75).

However, an applicant has to pass a recognized language test, whereby language skills can be acquired individually or at different providers, e.g. through the international network of the Goethe institutes<sup>80</sup> (Perchinig 2012, p. 71; Strik et al. 2010, p. 12). Language courses' costs can strongly vary because they depend on the country in which the language course is taken (Strik et al. 2010, p. 13; Deutscher Bundestag 2010b, p. 12).

The worldwide overall success rate for the language test itself was 59% in 2008 and 65% in 2009 (success rate for attendants of a course at the Goethe Institute: 81% and external success rate: 61%)<sup>81</sup> with different success rates depending on the country of origin (Deutscher Bundestag 2010b, p. 21). In the transition period between a language course taken in the home country and attending an integration course in Germany (on average 11

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<sup>78</sup> Sufficient language knowledge is now valued as the key competency for successful integration and constitutes the focal point of German integration policy (Gereke, Srur 2003, p. 5).

<sup>79</sup> Beside other preconditions such as age, sufficient living space and adequate health insurance coverage which has to be provided by the spouse in the receiving country (for further details see Lüken-Klaßen 2013 (forthcoming)).

<sup>80</sup> The Goethe-Institut is a worldwide operating culture institute by the Federal Republic of Germany, which supports the knowledge of the German language and the international cultural cooperation.

<sup>81</sup> It should be noted that also participants are included in the rates which retook the test once or even several times. There can be found some controversial debate about data collection and presentation regarding pre-entry tests conducted by the Goethe-Institut (Scholten et al. 2012, p. 74).

months<sup>82</sup>), third-country migrants seem to forget to a large extent the language skills already acquired in the home country. Although, 88% of the migrants evaluate the language acquisition in the home country as a useful preparation for arriving in Germany and are motivated to foster and enhance their language as well as regional and cultural knowledge about the receiving country (Goethe-Institut 2012, p. 5).

Important measures to maintain the acquired language skills in the transition period and thereby to accelerate and enhance the integration process in the receiving society could include a better organized and coordinated management of the offers in the home and the receiving country as well as special offers for the transition period such as interactive and community-based internet platforms for autonomous learning (Goethe-Institut 2012, p. 35). Therefore, in order to accelerate the reunification of a spouse who has already acquired some knowledge of the German language, the Federal Government should aim to enhance the management of integration courses (by providing more effective linkages between integration offers in the home country and integration measures in Germany) (Goethe-Institut 2012, p. 9).

Thus, it is difficult to answer the question of whether a pre-entry integration measure such as a language course facilitates the integration process for family migrants. Participating in a language course in the home country seems to motivate migrants to continue studying the language, but satisfying evaluation can not yet be found (Deutscher Bundestag 2010b; Strik et al. 2010, p. 38; Goethe-Institut 2012, p. 5). The pre-entry test has even led to a changing composition of the group of applicants for temporary residence permits: “the percentage of female applications has increased (further) to more than two-thirds, the applicants have on average become more highly educated (increase of percentage of highly educated from 20 to 33%) and they have become younger on average (from 33 to 31 years of age)” (Perchinig 2012, p. 74).

## **Language k(ICS)**

In addition to the findings on pre-entry language acquisition, some specific results on family migrants' language proficiency are made possible, because the interviewer for the Immigrant Citizens Survey (ICS) evaluated the language knowledge of the interviewee. Family migrants'

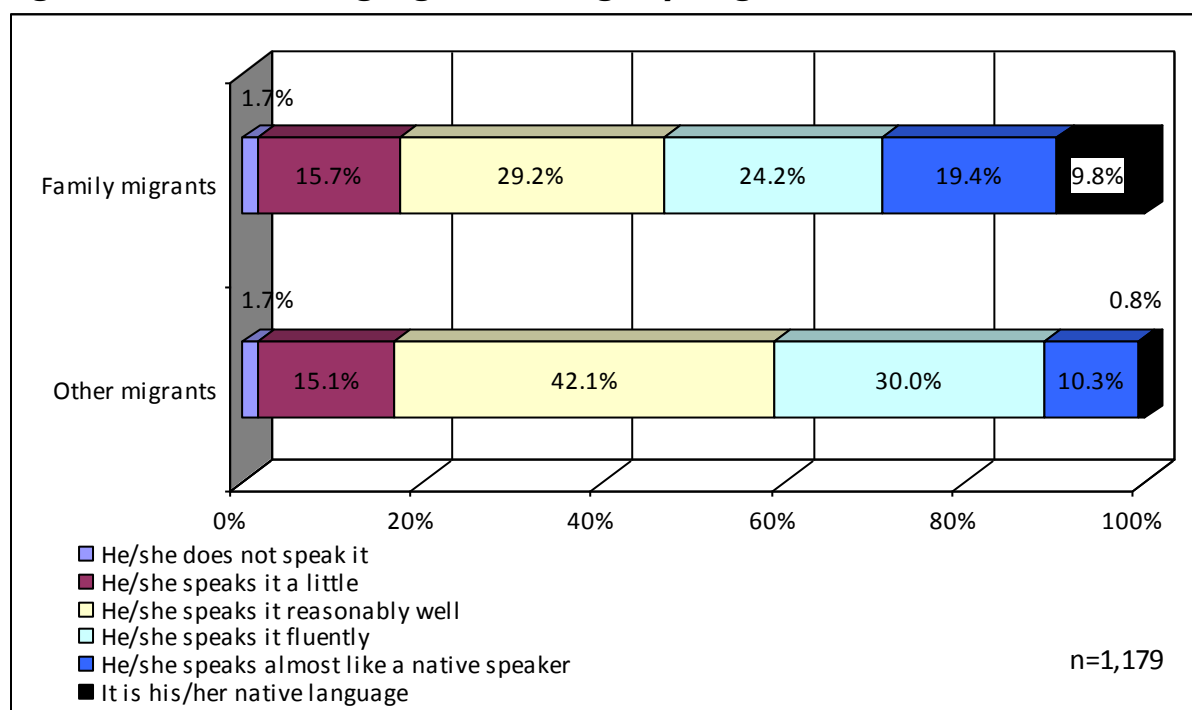
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<sup>82</sup> Due to the slow processing visa applications as well as sometimes limited available places within the integration courses in Germany (Sarah Tietze 2009, p. 32; Goethe-Institut 2012, p. 16).

language competence was more often positively assessed than the competence of other migrants: a major difference occurs in the “German is her/his native language” category: while German was assessed as mother tongue of 9.8% of the family migrants, only 0.8% of other migrants seem to be mother tongue speakers. Also the amount of family migrants who “speak almost like a native speaker” is higher than that of migrants with another type of residence permit (19.4% vs. 10.3%) (see

Figure 8).

**Figure 8: Assessed language knowledge by migration status**



Source: efms, own calculations based on ICS Germany

On the other hand, family migrants are less often categorized as speaking German “fluently” (24.2% vs. 30.0%) and fewer family migrants speak German “reasonably well” than migrants with another status (29.2% vs. 42.1%). Within the two lowest categories (“does not speak”, “speaks only a little”), no difference according to residence permit occurs.

All in all, family migrants’ language knowledge is more often classified in the highest and less often in the intermediate categories than other migrants. Again, however, logistic regression

shows that **differences regarding language knowledge do not depend on the migrant's status** but rather on length of stay in Germany, age at time of migration and level of education. Also the origin in terms of being born in Turkey or not does have a negative impact on the current level of language knowledge.

### 3.3.5 Integration courses

With the new Residence Act, which came into force in 2005, Germany introduced integration courses for migrants, consisting of a language course (600 hours) and an orientation course on Germany's legal system, history and culture (60 hours). Upon issuance of their first residence permit, a third-country national family migrant is entitled to participate in an integration course (section 44 (1) AufenthG)<sup>83</sup> (Bundesministerium des Innern 2012a).<sup>84</sup> In the case of insufficient language skills (below level B1) (section 3 (2) Integrationskursverordnung, IntV) migrants are not only entitled, but the Foreigners' Office may oblige the migrant to participate in an integration course (section 44a AufenthG).

Between 2005 and 2011, almost 800,000 migrants participated in an integration course (Bundesamt für Migration und Flüchtlinge (BAMF) 2011a, p. 4). Of the integration course participants, 61% entered Germany for the purpose of family reunification<sup>85</sup> (Bundesamt für Migration und Flüchtlinge (BAMF) 2011a, p. 10). Thus, in order to get information on the integration of family migrants, the outcomes of these courses and respective evaluations are of interest as well.

As family migrants constitute a large proportion of migrants arriving in Germany, they are explicitly determined as a target group for participating in integration courses (section 44 (1)

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<sup>83</sup> There is no entitlement to participation for a migrant in general if he/she will attend school in Germany or continues his/her previous school curriculum, shows a recognizably small need for integration or already has sufficient German language proficiency (section 44 (3) AufenthG).

<sup>84</sup> The primary target group of the integration courses are third country national migrants and German re-settlers as well as recipients of social benefits, in case they do not have sufficient German language skills (level B1) (section 3 (2) Integrationskursverordnung, IntV)). In addition, settled migrants who have already been living in Germany for several years and EU-citizens can be entitled, provided that course capacities allow for it (Perchinig 2012, p. 47).

<sup>85</sup> Integration course participants were asked to state their reason for migration (multiple answers were possible). Based on the available data, it is not possible to get information about the exact status, just about motivation of migration.

Ib. This entitlement enables family migrants to be relieved of parts of the course contribution<sup>86</sup> or travelling costs (Schönwälder et al. 2005, p. 37).

### **Outcomes on integration courses in ICS**

Most family migrants participating in the ICS survey immigrated to Germany long before the legislative amendment. However, several respondents had already participated in an integration course. 186 family migrants and 149 other migrants out of the survey participants, i.e. a quarter of respondents (irrespective of residency type), participated in and completed an integration course (family migrants 24.0%; others: 26.8%).<sup>87</sup> The small proportion of participants is due to the fact that the courses were only introduced in 2005.

The effects of integration courses were assessed rather positively, without striking differences between family migrants and other migrants. An overwhelming majority of all respondents who participated in integration courses found integration courses to be at least a little helpful or very helpful in getting involved in the local community (school, association, political activities) (around 93%, without major differences between the migrant groups).<sup>88</sup> Similar to the sense of involvement in their local community, respondents valued integration courses as helpful “to feel more settled”. Only about one fifth of migrants believed that the integration course did not help them feel more settled.

65% agreed that the course was of great help in learning the language (without differences between family migrants and others). Several migrants also stated that the courses “helped to learn specific German vocabulary needed for job or skills” (36.7% of family migrants versus 46.6% of others).

### **Evaluation of integration courses**

In 2006, a comprehensive evaluation of the integration courses in Germany was conducted by Rambøll Management. Additionally, in 2007 the so-called Integration Panel (*Integrationspanel*) was established to evaluate on a long-term basis the efficiency and

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<sup>86</sup> In general each participant has to contribute 1,20 EUR per integration course lesson (which means – as an integration course consists of a language course with 600 hours and an orientation course with 60 hours – a contribution of approx. 792 EUR) (Bundesamt für Migration und Flüchtlinge (BAMF) 2013).

<sup>87</sup> The majority of all migrants completed an integration course once started (withdrawing rate for family migrants 8.3%; for other migrants 6.5%).

<sup>88</sup> 48.4% of the family migrants and 50.0% of migrants with another type of residence permit value the integration course as very helpful for getting involved in their local community.



sustainability of the integration courses.<sup>89</sup> Standardized questionnaires are used for integration course participants and non-participants to examine whether the integration process proceeds considerably faster for migrants who participate in an integration course. Some additional literature analysing integration courses in different European countries can be found as well (see below). Efficiency control of integration courses, however, is very difficult to manage because of the large number of various implementing organizations – in Germany, there are about 1,000 different organizations implementing integration courses in different styles –, because the final test is not compulsory and because implementation is subject to the individual teacher (Bundesministerium des Innern 2006, p. ii). Therefore findings and outcomes should be considered with some caution. Research regarding integration measures is still in its early stages.

In regard to integration of migrants participating in integration courses, initial research findings conducted by Rambøll Management revealed that the foreseen 600 teaching units may not be sufficient for **language acquisition of level B1** for a large proportion of the participants<sup>90</sup> (Bundesministerium des Innern 2006, p. ii), for similar findings see also: (Schönwälder et al. 2005, p. ii). The orientation course also appears to play a tangential role (in the mind of the participants as well as the teaching staff). However, the government placed greater emphasis on the orientation course as a significant component of the integration process, by raising the orientation course lessons from 45 to 60 hours in 2012 and by introducing a nationwide, federally uniform orientation test in 2009. Additionally, since most of the integration course terminations were a result of missing child care services, these services were expanded and facilitated (Bundesamt für Migration und Flüchtlinge (BAMF) 2009, p. 30; Bundesamt für Migration und Flüchtlinge (BAMF) 2012a).

According to evaluations implemented by the Integration Panel, findings also show that the integration courses in Germany seem to **facilitate the integration process into the society** in different dimensions beside language knowledge: (a) **Improvement of German language proficiency**: 93% of the course participants reported an improvement of their language proficiency during the course. In particular, immigrants who entered Germany as

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<sup>89</sup> As required by the Residence Act section 75 (4) (AufenthG), the Federal Office of Migration and Refugees (BAMF) received the order to conduct research about migrant issues to manage migration effectively. The Integration Panel was established as a longitudinal study to evaluate the integration courses in particular.

<sup>90</sup> As a proportion of approximately 40% of all integration course participants were not able to achieve language skills at level B1 within 600 teaching units, it was proposed by Rambøll Management to offer a “flexible number of instruction hours” differentiating according to the learning progress and previous knowledge of the participants. Thus a scaled language test (level A2 to B1) were established (Bundesministerium des Innern 2006: p. iv)).

spouses through family reunification or as refugees benefit from the course<sup>91</sup> (Bundesamt für Migration und Flüchtlinge (BAMF) 2011c, p. 4). Most participants further improved their language skills in the year following the conclusion of the course (51%) or maintained the same level (7%).<sup>92</sup> (b) **Social integration:** Participants reported having more contact with Germans towards the end of the course. The level of contact remained stable one year after the end of the course (Bundesamt für Migration und Flüchtlinge (BAMF) 2011c). Whether this can really be explained by the courses, however, should be further examined. (c) **Emotional integration:** The feeling of attachment to Germany intensified, the intention to stay permanently increased and the number of naturalized Germans grew for integration course participants in comparison to non-participants. (d) **Structural integration:** An increase in employment is evident for men (especially full-time) and women (especially part-time) two years after finishing the integration course, in which German language skills played an important role as “the greater the improvement in the command of German between the first and the second survey, the higher the probability that the participant has a full-time or part-time job one year after the end of the course” (Bundesamt für Migration und Flüchtlinge (BAMF) 2011c, p. 7).

In general, both obligated and voluntary participants value the integration course in terms of enabling them to deal better with everyday life in Germany and especially of learning German. The integration course has turned out to be particularly useful for participants with children as the integration course helped them to support their children in their education<sup>93</sup> (Bundesamt für Migration und Flüchtlinge (BAMF) 2011c, p. 10).

As these results refer to a large extent to a single source only, little is still known about the effects of integration courses in terms of promoting social-cultural integration but the first steps towards a useful evaluation are done.

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<sup>91</sup> As well as participants with a low level of education and immigrants who have been living in Germany for a longer time-period or did not live in a German-speaking environment.

<sup>92</sup> Also the heterogeneity in course composition due to country of origin is seen as advantage for integration as migrants have to communicate in German among each other (Bundesamt für Migration und Flüchtlinge (BAMF) 2011c, p. 11).

<sup>93</sup> For example, in terms of discussions with teachers or other parents, at parent events or with homework and parent letters.

### 3.4 Summary and conclusion

Family-related migration is a major source of immigration. In 2011, family migration emerged as the primary reason for obtaining a residence permit. Family migration is also the primary immigration channel for third-country nationals to Germany. Thus, patterns of family migration and integration are of concern for Germany and other European societies. Accordingly, this report consulted statistical databases, such as the visa statistics of the Foreign Office, the Central Foreigners' Register and survey data such as the Immigrant Citizens Survey (ICS), in order to analyse these immigration patterns.

The composition of immigrating family members for the purpose of reunification includes migrating spouses, children, parents and others. A pattern of gendered immigration arose in the last decades, wherein the majority of family migrants were spouses; mainly women (49.8% in 2011). In contrast, the proportion of residence permits granted for husbands make up 20.6%, for children joining their parents 22.0% and migrating parents joining their children 7.3% of the family migrants. In addition, the number of reunifications with German spouses has exceeded that of reunifications with foreigners since 2000.

The nationalities of origin of family migrants in Germany vary considerably. Turkish nationals constitute the largest group of family migrants, followed by citizens of the Russian Federation, the United States, India and Kosovo. In the case of Turkey and India, for instance, foreign spouses joining their partner with a foreign, non-German nationality are predominant. Furthermore the share of children is low in some groups while it is rather high in others: about a third of the US American family migrants as well as about a third of Indian family migrants were children.

Regarding age, the majority of family migrants are between 21 and 64 years old. The age composition between male and female family migrants seems not to differ significantly.

Although family migration has long been a major source of immigration, the German state did not officially register it as a separate category until 1996. Difficulties in acquiring comprehensive information about family migration and integration arise from a continual lack of differentiation in the purpose of migration, as well as from limited access to available data sets.

Nonetheless, conclusions can be drawn regarding the integration of family migrants on the basis of the publicly available data. Analysis of the ICS data demonstrates a few statistically

significant differences with respect to employment status and completion of tertiary education. For instance, at the time of the survey, family migrants were more often engaged in housework or education than non-family migrants. Family migrants also possess tertiary education less often than migrants with another migration status.

Further logistic regression analysis reveals that some differences that initially seem to correlate to family or other residency status are instead due to gender, age at time of migration, origin, length of stay in Germany, education or current language knowledge. Civic and political participation of family migrants did not differ from other types of migrant when these variables were controlled for. Similarly, differences regarding language knowledge do not depend on a migrant's status but rather on length of stay in Germany, age at time of migration and level of education. Outcomes based on the ICS show that family migrants immigrated on average at a younger age and spent more of their lifetime in Germany than other immigrants, which may be alternative explanatory factors for positive integration results.

Additionally, initial findings on effects of integration courses suggest that these integration measures facilitate integration into the receiving society. There was agreement between family migrants and other migrants on the effectiveness of the integration courses they attended.

Logistic analysis on integration outcomes additionally did not result in discernable differences between family migrants and migrants with another type of residence permit. Since family migrants' rights are similar to those of other migrants, this result is not very surprising. Nonetheless, some differences could be discerned that it would be worthwhile to analyse further.

The immigration patterns and depth of integration of family migrants analysed in this report are initial steps towards greater recognition of family migration as an independent immigration phenomenon. However, the persistent gaps in research and data sources necessitate greater attention to this field of study.

## 4 Qualitative findings: the integration of family migrants

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This chapter, based on Heckmann 2013, analyses qualitative findings, exploring the implementation and effects of the different rules and regulations (which have been discussed in the chapter *Conditions of stay and rationales: German legislation on family migration*) on the integration of TCN family migrants, especially in the fields of employment, education, housing, civic participation, healthcare and social assistance. The analysis is mainly based on qualitative interviews and focus group discussions with experts on family migration, conducted in 2012 and 2013.

Integration policies are mainly applied at the local level. That is why the main group of experts interviewed are from this level. One larger city and one smaller city were selected for the expert interviews; the city of Stuttgart, located in Baden-Württemberg, was chosen as the larger city, Bamberg, located in Bavaria, as the smaller city. In both cities migration is the most important factor in population processes.

In addition to the qualitative expert interviews, the efms team organized an expert workshop on family migration and the integration of family migrants, with attendance from 21 local experts as well as family migrants; findings from that event have contributed to this report.

In the following, we first give some background information on the city of Stuttgart, on the city of Bamberg as well as on the methodology used, before providing the main results of the interviews.

### 4.1 Background information and methods

#### **Background information: the city of Stuttgart**

The city of Stuttgart, the capital of the Southern federal state of Baden-Württemberg, has a population of about 600,000, making it one of the largest cities in Germany. The Stuttgart region is very prosperous – as a consequence it enjoys a good reputation and attracts many immigrants. Foreigners make up about 20% of the population while inhabitants with a

migration background reach a total of about 40%; the migrant population is very diverse. Both the number and the proportion of migrants are clearly above the German average.

Traditionally, the political colour in Stuttgart has been rather conservative: for decades, both the federal as well as the city government were dominated by the conservative party (CDU). This has somewhat changed with the elections in 2009, when the Greens became the strongest party in the city council.<sup>94</sup> And in October 2012, a new lord mayor has been elected and from January 2013 on the city has been governed by a Green lord mayor.

The city of Stuttgart is known for its committed integration policy: it has won several prizes for its integration concept and the city has been initiating a number of European projects for the improvement of local integration policies and is thus “agenda-setting” in the field of integration policy.

### **Background information: the city of Bamberg**

The city of Bamberg is located in the federal state of Bavaria and has a population of about 70,000. As such, it is much smaller in size than Stuttgart and reflects more of the traits of a “typical” middle-sized German city. Foreigners make up about 15% of the inhabitants which is slightly above the German average. Inhabitants with a migration background make up 20% of the population.

The city council is dominated by three parties: The CSU conservative, the Social Democrats and the Greens. The lord mayor is a Social Democrat.<sup>95</sup> While there are several welfare associations that consult migrants and provide them with services, the city council has only recently begun to develop an integration concept which is still work in progress.

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<sup>94</sup> Of the 60 members of the city’s committee, the Greens have 16 seats, the conservative party CDU has 15, the social democrats (SPD) have 10. Further, the rather conservative party “Freie Wähler” has seven seats, the liberal FDP six, the left fraction “SÖS/DIE LINKE” five and the right wing party “Die Republikaner” has one seat.

<sup>95</sup> Of the 44 members of the city council, 15 belong to the conservative CSU, 10 to the Social Democrats (SPD) and 7 to the Greens; the rest of the seats is divided among smaller local parties.

## **Methods**

The local expert interviews were selected through a purposive sampling among experts from the local administration, welfare organisations, migrant organisations and other NGOs, religious communities, migrant representative bodies, family councils as well as language and educational institutes. The interviewers followed a semi-structured interview schedule, usually lasting about an hour, and all interviews were recorded, transcribed and analysed with the support of MAXQDA, a software for qualitative data analysis.

In addition to the interviews, we organized an expert workshop in Bamberg with 21 experts on family migration issues; the workshop participants were selected from the same and similar organisations as those we interviewed. The workshops took place on July 25, 2013 in the old city hall of Bamberg. The efms team first presented results of the project work on legal and social aspects of the topic, with some international comparisons, which was followed by an extensive open round of question and comments; after that four main areas were systematically discussed:

- Family migrants and social assistance
- Rules on family migration and the effects on marriage relationships
- Family migration and access to the health system, and
- Language courses and integration.

The results of the workshop discussions are incorporated into this chapter on qualitative findings.

Impacts of the rules and regulations can be differentiated according to area of integration (employment, housing, civic participation, health care, social assistance) and according to groups affected, such as women or parents of immigrants.

## **4.2 Restrictions and rights for family migrants in different areas of integration**

The picture that has emerged from the legal analysis is generally supported by evidence from the qualitative data of 15 interviews in the cities of Stuttgart and Bamberg as well as by the workshop conducted in Bamberg with 21 participants. Compared to natives, EU citizens and

migrants with a permanent residence status, there are very few restrictions in terms of rights and access to services and institutions of the welfare state for family migrants. Furthermore, there are quite a few special programmes – like language courses – that are available for family migrants.

It was this circumstance which made it ambitious for the interviewers to focus the interviews on family migrants: the respondents tended to answer the questions mostly in relation to migrants in general since the perception of family migrants as a special group in the integration process is not much developed in Germany. The same happened in the workshop with 21 participants from different angles of integration policy. Participants often had to be reminded to focus on the specific aspect of integration of *family* migrants, but not on general problems of integration that pertain to all groups.

Another theme that repeatedly emerged in the open interviews was the legitimacy, fairness and functionality of pre-entry conditions for marriage migrants. We did not elaborate in the interviews on those concerns, since IMPACIM focuses on post-entry conditions.

As for access to the labour market, health services, housing, and education, the Stuttgart commissioner explained that he is not aware of any differences or specific regulations for family migrants. Another expert from Stuttgart explained that due to the pre-entry conditions, and the fact that a family migrant comes to join an existing family, her or his situation is much more comfortable than that of a single immigrant. A city staff member gave an example:

“You have a certain security when you arrive as a family migrant. You have a home, the income is secured by the partner or the larger family. You join an existing network of relations in a community, which provides you with information and support. Particularly the first phase of integration is much easier under these conditions.”

All of this does not mean that there are no obstacles to integration for family migrants. We looked at rights and restrictions for family migrants in the following areas: the temporary connecting of residence status with a continuation of marriage, social assistance for family migrants, access to the labour market, participation in integration courses, access to the education system for children and youth; we will also briefly discuss the question of locally specific rules and practices.



IMPACIM is particularly interested in the effects of restrictions and rights for family migrants in the domains of employment, education, housing, civic participation, health care and social assistance. Neither in the interviews nor in the workshop could any particular policies, restrictions or rights for family migrants be found in the areas of housing and civic/political participation. Of course, there is discrimination in housing, and there are also anti-discrimination measures, but they are not specific to family migrants; the specific restrictions in housing relate to the pre-entry conditions. It is safe to say that there are few possibilities for political participation for non-citizens, but these are aspects that concern all categories of migrants, not just family migrants. We thus omit these domains from our discussion, which must be focused on family migrants.

#### 4.2.1 Access to labour market and employment

As the legal analysis has explained, the general rule is that access to the labour market for family members depends on the residence status or citizenship of the person who is to be joined, the “sponsor”. This means that a third-country national joining a German citizen family member is immediately able to work. A third-country national joining another third-country national who has access to the labour market will have access as well. Family members of sponsors with limited access will, in the beginning of their residence, face the same restrictions as their sponsor.<sup>96</sup> After two years of residence, however, they will get full access to the labour market.

While legal access to the labour market is therefore not a major problem for family migrants, recognition of qualifications acquired in the country of origin is a serious issue as discussed in the interviews and with much passion in the workshop. The procedure of recognition is said to be very complicated and expensive, and supposedly has not changed much with the new law of 2012. In addition, there are complaints about a lack of re-qualification courses. Of course, these problems of recognition of qualifications do not only concern family migrants, but migrants in general.

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<sup>96</sup> This concerns, for instance, persons who have a limited employment agreement (e.g. a musician or scientist with a two-year contract) including a limited residence permit, as well as persons with “subsidiary protection” which is a (weak) status for persons, who are neither recognized as asylum seekers nor do they fall in the refugee category of the Geneva convention, but get protection because their expulsion would endanger their death, torture or imprisonment.

The interviews reveal that this ‘waiting periods’ and times of unemployment are particularly difficult for men to take, since most of them hold the traditional breadwinner’s self image, as illustrated by a migrant representative:

“If the husband cannot work in the beginning and sits at home while his wife works, he has problems with the traditional gender identity; I have observed that these men are getting so insecure that they start behaving violently towards their wives.”

Having the obligation to take part in an integration course in that situation with the disciplining effects of the daily routine of a language course seems to be very helpful. New immigrants generally are obliged to take part in an integration course that is free for persons on social assistance and costs € 1.2 per lesson for others.

#### 4.2.2 Access to education

Regarding education, two areas have been the focus of interest of the interviewees: access to and success within the educational system, and access to and effects of pre-entry and post-entry integration and language courses.

##### **Access to and success within the educational system**

What has already been noted in the chapter on legal conditions has been confirmed in the interviews: there are no problems in simply *accessing* the education system for children and youths who come as family migrants. So called ‘transition classes’ (*Übergangsklassen*) help children learn the language and get to know the system. This is a measure installed by the federal state ministries of education. In addition to this, some cities, e.g. Stuttgart, have organized and funded special language learning classes for migrant children who come as family migrants. By contrast, some interview partners in the city of Bamberg explained that there are hardly any transition classes, since the number of new immigrating pupils is so low that this measure is difficult to organize within the respective districts.

As in the other areas of integration, respondents and participants in the workshop mostly tended to talk about general problems of migrant children in the school system, such as lack

of mentoring support, lack of parental involvement, early school leaving or school segregation and language problems. This shows, however, an important problem: the challenge is not so much *accessing* the education system, but overcoming informal barriers implicit in the education system to succeed in it. A particular perspective on children and youth as family migrants, as distinct from other migrants, could not be found in the interviews.

### **Pre-entry and post-entry integration and language courses**

As detailed above, third country nationals entering the country have to take part in an integration course. It is both an obligation and a right. It consists of 900 hours of German language instruction and 35 hours of civics. Despite some criticism upon the introduction of the integration courses in 2005 a majority of expert respondents today look upon the courses as a useful measure of integration, as confirmed by city as well as migrant representatives. One respondent explained:

“Participation in integration courses is good for integration; you meet other people, people from different background, you are out of the isolation of your house, you have to learn how to orient in the city, how to use public transport, find the city hall and the local foreigners’ office, go to the language institutes, you really get to see something...”

Integration courses are a way of empowering immigrants in the new country. This judgement was strongly confirmed in the policy workshop.

For those who are not allowed to work for a year or two, e.g. people under subsidiary protection, the integration courses are a stabilizing force. The courses could be even more effective if they were not underfinanced. Another expert and migrant representative from Bamberg emphasizes the gender aspects of taking part in an integration course and how this is beneficial for women spousal migrants:

“Thank God that the courses are obligatory. Some men want keep their wives at home. Integration courses help women not to be restricted to their homes.”

Several interviewees in both cities as well as workshop participants representing the integration council of Bamberg, the Caritas welfare organisation and a German language

instruction institute emphasized the very positive influence of the combined effects of pre-entry and after-entry language courses on the first phase of the integration process, particularly for women. Criticism of language courses does not concern the courses as such, but their employment as a pre-condition for a visa. “It is particularly difficult for women in rural areas of Turkey to get access to these courses. This seriously delays the reuniting of husband and wife”, complained a representative of the Turkish organisation DITIB in the workshop. In the end, the pre-entry language course, he consented, does not hinder the uniting of husband and wife, but may delay it seriously. Several other interview partners and workshop participants agreed with this assessment.

#### 4.2.3 Access to social assistance

Entry requirements must prove the ability of the sponsor to provide for the living costs of the migrating partner. If a sponsor’s income situation changes in the first three months period after a partner’s arrival, no social assistance will be paid. If the sponsor is a citizen, however, this rule does not apply. The rationale for this practice is to avoid immigration into welfare state systems and to protect the taxpayer, as reported consistently in the interviews.

Loss of ability to financially provide for the family on the sponsor’s side within three months after the entry of partner and thus needing to receive social assistance, however, is a rare case. If it happens, the need of social assistance has longer-term consequences, becoming a stumbling block for getting a permanent residence status and applying for citizenship, but in practice it does not hinder receiving social assistance or staying together as a family, as confirmed by the interview partners of both administrations and migrant counselling services.

The overall picture therefore is that family migrants in need do receive social assistance. In fact, the proportion of persons and families with a migration background receiving social benefits is a much higher rate than those without a migration background (Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration 2010). The representative of the Bamberg department for social affairs in the workshop noted that migrant families receive social assistance just as other families that are in a comparable situation of need.

The workshop extensively discussed the question of whether family migrants in need might not apply for social assistance for fear of not getting a safe residence status. Participating

migration counsellors confirmed that such cases do exist, but that they are rather rare. The same assessment was made in interviews in the city of Stuttgart.

#### **4.2.4    Access to the health system**

Since incoming family migrants enter the country under pre-entry conditions, which include possessing health insurance via the sponsor, they have access to the general health system. “The German health system does differentiate according to income, but not according to country of origin”, as stated by the Integration Commissioner of the city of Stuttgart. There are no legal barriers to accessing the health system for family migrants, in particular since it is a family health insurance system.

This is the legal and formal perspective of access to the health system. However, other informal barriers such as problems of communication with medical doctors and nurses, finding the right place for a particular treatment and getting to know the health insurance system are all aspects of general migrant health, and concern family migrants in the same way that they affect other migrants. Surprisingly, workshop participants were almost enthusiastic about the easy access and quality of the health system. A representative of the Jewish community originating from the former Soviet Union in particular praised the system to an extremely high degree.

### **4.3    Impact on special groups: connecting continuation of marriage and residence status**

Before a family migrant gets an independent residence status she or he is dependent for her or his status upon the continuation of the marriage. In order to stay in Germany, a family migrant (husband or wife) does not have a residence status of his/her own for three years; the residence status is made dependent upon the continuation of the marriage, regardless of the social stability of the marriage. The avoidance of sham marriages is the officially proclaimed rationale for this practice.

As to the effects of this rule for integration, one has to look at the social reality of marriages, of which quite a few already fail in the first three years. If there are tensions, the partner with the better residence status might say: “If you do not obey and behave, I will send you home”, as reported by a migrant representative interviewed. Mostly, this concerns women,

but men could be and are affected by the rule as well. The asymmetry as such is said to be harmful for the marriage, since “it reinforces a power imbalance which is there anyway, because of the language problems of the migrated person and his ignorance about circumstances”, as underlined by a city official interviewed.

The residence status dependency in some cases leads to women tolerating violence inflicted by their husbands. Neither at the local nor the national level is it possible to gain any exact figures on this phenomenon. Even though women may know that in the case of domestic violence they may get a residence status of their own before the end of the three year waiting period, they are not certain of the right and hardly ever use this legal opportunity, as reported by some migrant counsellors in both cities. , There was also consensus in the workshop that such cases of women tolerating the violence of husbands do exist, but not in large numbers.

Another case that was discussed in the workshop and addressed in some interviews in the city of Bamberg is female family migrants who have married and now live in the countryside. Most of these women do not have the ethnic community networks and communication channels that women have who live in a city with a developed ethnic community structure. Many of these women, it was judged both in the interviews and the workshop, would most likely not know about the exception to the rule (and their additional rights in case of domestic violence) and would most likely tolerate the violence of their husbands.

As such, although a legal right to protect women from domestic violence exists, in reality, the lack of knowledge of the condition means that it is not working effectively.

### **Families with young children**

Regulations on family reunion in the German Residence Act centre on the nuclear family with minor children. There is, contrary to classical immigration countries like the United States, no right for siblings to come. And only in very exceptional cases is it possible for families to have their grandparents join them (section 36 (2) AufenthG); an exception is possible only to avoid exceptional hardship. The policy workshop confirmed that it is not only a formal legal barrier, which would perhaps not be strictly executed, but a real barrier: it is really a very rare case in practice in which grandparents would be allowed to get a

residence status and be able to support the young parents to raise their children and help the young family in the integration process – a fact criticized by the workshop participants.

If the young parents are second generation migrants, however, their first generation parents will normally have a safe residence status and thus could stay in Germany on that basis, or live in both the country of origin and Germany, as many do, for instance Turks. Grandparents without a residence status of their own could still come as tourists, but would have to leave the country after three months before embarking again.<sup>97</sup>

#### **4.4 Locally specific structures**

The experts in Bamberg and Stuttgart judge that in the last two decades both cities have “opened up” for migrants and their needs, and that this process is continuing. Stuttgart was one of the first cities in Germany to develop a local integration concept, labelled Stuttgart Pact for Integration (*Stuttgarter Bündnis für Integration*) in 2001, which served as a model for many other cities in Germany. Stuttgart has a consolidated system of services for migrants that support family migrants as well. A system of primary contact points has been established that helps new migrants to get access to the services of the city administration and to those of welfare organisations and other NOGs.

Bamberg began a broad conversation on a local integration vision in 2007. The discourse is continuing and is organized as a participatory process, which involves the local administration, NGOs, migrant organisations, representatives of the education system and interested individuals. The workshop gave evidence that in the past years services for migrants have increased, not the least because of a very active integration committee. Still participants of the workshop felt that there is a lack of coordination among the measures, particularly in the area of language courses, where there is an oversupply of certain courses for particular groups, and an undersupply for others.

This is different in the city of Stuttgart: as described in the introduction, some cities offer additional measures that support the integration process and go beyond the national rules. The city of Stuttgart, for instance, organizes and funds special language learning classes for migrant children who came as family migrants. The commissioner for integration explains

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<sup>97</sup> And even this occasion is not always provided, as reported by a Turkish migrant representative who experienced that the German embassy in Turkey did not allow her family members to come as tourists to Germany.

that the city council has decided to fund additional local language courses; one type prepares for participating in integration courses, while other types of courses address, for instance, the needs of seniors and refugees. The initiative for organizing and funding such courses came from the local council for integration and the city integration department. The rationale for these measures derives from a judgement that other government levels are not fulfilling their obligations. Education – including language learning – constitutionally is the responsibility of the federal states for instance, but the needs of special groups of immigrants are neglected by the federal authorities.

In both cities respondents in the interviews claimed that the local foreigners' offices have some room for interpretation of rules regarding the pre-entry conditions, but few as to the after-entry conditions. When "generous" interpretations and applications of rules were mentioned respondents in both cities pointed to individual characteristics of administrators, not to particular structures in the administrative structures.

## **4.5 Conclusion**

The historically evolved concept of the German welfare state, the constitution with Article 6 on the protection of families by the state, irrespective of citizenship, the tradition of the first recruitment treaties for guest workers, and the new Residence Act of 2005 all have the effect of including family migrants into the societal systems necessary for securing migrant families' livelihood. This is the very basis of any integration process.

In reality, few restrictions exist for family migrants. These include waiting periods for husbands or wives before them getting a residence title of his/her own, waiting periods before access to the labour market for a few groups and a very short waiting period of three months before being entitled to social assistance. There are no major stumbling blocks for successful integration. It is in this context as well that family migration is not really a relevant category in the political and academic discourse on integration in present day Germany.

Historically, however, particularly in the late 1970s and 1980s, one group of family migrants was even in the centre of controversies: children of migrants. In the face of massive school problems of these children and slowly realizing that the guest workers would not return, the age limit up to which the children should have a right to join their parents was much disputed. Conservatives wanted to set the age limit at 12, "progressive" groups argued for



18 years. From the 1990s onward, however, other topics dominated the scene: the Residence Act of 2005 set the limit at 18, not least under EU influence.

Family migrants as a category – and one category of family migrants – that is somewhat discussed are incoming wives and – to a lesser degree – husbands from the country of origin. The majority of Turkish young men in Germany, for instance, still choose their wives from Turkey (Bundesamt für Migration und Flüchtlinge 2010, p. 114). The focus of the discussion on this group of family migrants is on the question whether the incoming wives prolong the process of integration. Since the new partner from the country of origin speaks little or no German the young family and the children will speak the language of the country of origin, even if the husband is a second or third generation immigrant; many children with a Turkish migration background thus have very little or no knowledge of German when they enter kindergarten (Nauck 2004). Massive language problems for the school system is another consequence of this development.

From the expert judgements in the interviews and the workshop it can be summarized that the lack of major barriers for inclusion of family migrants into the major societal institutions supports the integration process. In relation to single measures the right and the obligation to successfully take part in an integration course (which is mainly a language course, and to a small degree a civics course) is judged as being very helpful in the first phase of the integration process.

In Germany there is an ongoing debate whether integration can be called successful or a failure. It seems to us that there is more evidence for the success arguments and that the relative lack of restrictions and, on the other hand, the entitlements given, have contributed to a rather successful integration process. The statistical demonstration of this relation between family migration policies and success of integration process, however, is not possible.

Evidence for a successfully proceeding integration process is as follows:

- There is a significant correlation between length of stay in the country and indicators of integration (Diehl und Schnell 2006).
- The second generation generally is better integrated than the first generation (ibidem).

- Differences on indicators of integration between persons with and without migration background decrease over time (Lutz und Heckmann 2010).
- Monitoring reports on the state of integration like the biannual report of the Federal Commissioner for Integration or the Integration Report of the Federal Office for Migration and Refugees give an overall picture of continuing serious differences, but decreasing over time (Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration 2011).
- The highly respected migration committee of eight large German foundations looked at the empirical evidence on the state of integration in Germany and found that integration policy on the whole has not failed; instead, the integration is satisfying or even well realised (Sachverständigenrat Deutscher Stiftungen 2010, p. 15).

It seems safe to conclude that, on the whole, after-entry regulations for family migrants in Germany are not a stumbling block for integration.

## 5 Summary and conclusion

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German law grants reunification rights to the nuclear family, i.e. to minor children of German citizens and foreign nationals living in Germany, to the parents of minor children living in Germany as well as to the spouses and registered same-sex partners of German citizens and foreign nationals living in Germany. Additionally, there are exceptions for cases of hardship.

The detailed regulations depend on the family tie as well as on the status of the sponsor to be joined, i.e. whether the family member to be joined is an EU citizen, a German citizen or a third-country national. Family migration to a German citizen is easier than it is to third-country nationals, since German citizens enjoy more extensive rights and have to fulfil less restrictive conditions. It is even easier for EU citizens to reunify their family, since they fall under the more generous Act on the General Freedom of Movement for EU Citizens.

In order to obtain permission to migrate to Germany as a third-country national one has to meet, however, several preconditions. In a nutshell: the immigrating family member has to prove basic knowledge of the German language, the resident family member has to provide evidence of sufficient living space and a secure livelihood and, in the case of immigration of spouses, both spouses have to be 18 years of age. The rationale behind the language requirement regulations is that they support the integration process after having entered the country – they may be regarded as pre-entry integration measures – and that the age-related regulations help to avoid forced marriages.

It is noteworthy that these preconditions may be waived for some groups, namely for people granted asylum/refugees, and the privileged group of highly qualified foreigners, foreign researchers and self-employed foreigners. Further, it is noteworthy that the basic regulations are similar for family reunion with Germans and third-country nationals, but “exceptions” have to be made for family reunion with Germans who are not able to meet the preconditions.

There are few restrictions facing family migrants after they have entered the country: these relate to receiving social welfare benefits: while third-country nationals, who are not able to work (e.g. due to age or illness) can get financial assistance immediately after arriving in

Germany, migrants who are able to work but unemployed cannot obtain any financial assistance within their first three months of stay in Germany. This also holds true for their spouses and children. In addition, a third-country national is not entitled to receive any benefit if his/her stay is for the purpose of looking for work. Again, this also holds true for the family members.

One has to note, however, that family migrants' rights do not depend on their status as family migrants *per se*, but rather are conditional (in the same way as for other migrants) on the kind of residence title they have. In this context there is a major restriction possibly affecting a marriage relation: the migrated wife or husband – mostly the wife – gets a residence title of her/own only after the marriage has existed for three years. The power asymmetry created by this rule may detriment the marriage. In this context, one has to note that a legal right to protect women from domestic violence exists – in the case of domestic violence women may get a residence status of their own immediately, and not only before the end of the three year waiting period – but several experts interviewed reported that some women, especially in rural areas, might not know their rights which means that the legal right is not working effectively.

However, once a family migrant has got his/her residence or settlement permit there is hardly any specific regulation for him/her; family migrants have the same duties and restrictions as other foreigners have – and in most aspects, they have the same legal rights as German citizens (except the few restrictions regarding financial assistance, as reported above). These rights are rooted in the constitution. The rules relating to family migration and integration have to be in accordance with article 6 of the constitution which states that the family shall be under special protection by the state. What is important: it does not say that the 'German' family is under special protection, but simply 'the family', independent of the citizenship of families. And this is the main legal rationale for not allowing major restrictive practices concerning foreign families in Germany, or even discriminatory practices. The protection of third-country national foreign families has been solidified by the EU Directive 2003/86/EC on family reunification for third-country nationals. It is this strong constitutional and European basis which explains why no major restrictions for the integration of third-country national family migrants can be expected in Germany.

As to the non-legal sphere, the German concept of the welfare state is the most basic rationale for migrant and family migrant integration which explains the few restrictions for

migrants after they have entered the country. This welfare state concept is rooted in the Bismarckian policy of binding the working classes to state and society by creating institutions to protect them from the basic risks of life: unemployment, health and old age (Hemerijk, Palm, Entenmann and Van Hooren 2013). Integration policy towards migrants is rooted in this tradition. In this tradition the underlying concept and main feature of the German mode of integration has been to open the core societal institutions (labour market, self-employment, education and training system, housing, health) to immigrants – including their family members – and to include them in the general welfare state and social policy system. Already from the very beginning of foreign labour recruitment in 1955 – despite the temporariness of the early employment – migrants were included in the general labour market tariff system and the welfare state institutions. This policy aims at avoiding social class conflict, but derives from respect for human rights as well as from fundamental principles of social order. In present day Germany, the social order, i.e. the system of economic, social and political relations, is the so-called *Soziale Marktwirtschaft*: according to this concept the state is a welfare state and its role is understood in an interventionist sense, i.e. to help provide social security, social justice and to improve opportunities for disadvantaged groups. The most important aspect of the welfare system for immigrant integration is that non-citizen residents are generally included in it (Heckmann 2003).

Regarding the integration of the specific group of family migrants, only a few conclusions can be drawn. According to statistical analysis, there are a few statistically significant differences with respect to employment status and completion of tertiary education: family migrants were more often engaged in housework or education than non-family migrants and family migrants possess a tertiary education less often than migrants with another migration status. By contrast, further logistic regression analysis reveals that other differences that initially seem to correlate to family or other residency status are instead due to other factors such as gender, age at time of migration, origin or length of stay in Germany. Taken together, logistic analysis on integration outcomes did not result in discernable differences between family migrants and migrants with another type of residence permit. Since family migrants' rights are similar to that of other migrants, this result is not very surprising. The qualitative part of this study confirmed these results. As reported by all interview partners, the integration process of family migrants seems to be comparable to that of other migrants and is more dependent on factors such as socioeconomic (family) background, education and age instead of the channel of immigration.

## 6 Appendix: Organisations represented by the experts interviewed and by the participants of the round table

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- Catholic Women's Social Service Bamberg, Migration Consulting (*Migrationsberatung (MBE) des Sozialdienstes katholischer Frauen – SkF*)
- Catholic Women's Social Service Bamberg, Youth Migration Services (*Jugendmigrationsdienst (JMD) des Sozialdienstes katholischer Frauen – SkF*)
- City of Bamberg, Coordination Centre for Boards and Commissioners of the City of Bamberg (responsible department for integration) (*Koordinierungsstelle für Beiräte und Beauftragte der Stadt Bamberg (zuständig für den Bereich Integrationspolitik)*)
- City of Bamberg, Social Welfare Office (*Sozialamt der Stadt Bamberg*)
- City of Bamberg, Youth Welfare Office (*Jugendamt der Stadt Bamberg*)
- City of Stuttgart, Department of Integration (*Stabsabteilung Integration der Stadt Stuttgart*)
- City of Stuttgart, Foreigners' Office (*Ausländeramt der Stadt Stuttgart*)
- City of Stuttgart, Social Welfare Office (*Sozialamt der Stadt Stuttgart*)
- Council of the Bavarian Foreigners, Migration and Integration Advisory Boards (*Arbeitsgemeinschaft der Ausländerbeiräte Bayerns – AGABY*)
- District Office Bamberg, Foreigners' and Civil Registry (*Landratsamt – Ausländer- und Personenstandswesen*)
- Family Advisory Board of the City of Bamberg (*Familienbeirat der Stadt Bamberg*)
- Jewish Community Bamberg (*Israelitische Kultusgemeinde Bamberg*)
- Hertie School of Governance
- Jobcenter Bamberg

- Migration and Integration Advisory Council of the City of Bamberg (*Migranten- und Integrationsbeirat der Stadt Bamberg – MIB*)
- Migration Social Service “AWO” Bamberg (*Migrationssozialdienst der Arbeiterwohlfahrt – AWO*)
- Migration Social Service “AWO” Stuttgart (*Migrationssozialdienst der Arbeiterwohlfahrt – AWO*)
- Professional Training Centre of the Bavarian Economy (*Berufsfortbildungszentrum bfz*)
- Stanford University
- Turkish-Islamic Union of the Institution for Religion (DITIB) (*Türkisch-Islamische Union der Anstalt für Religion e. V.*)
- Turkish Parents Association Bamberg (*Türkischer Elternverein Bamberg e.V.*)
- Women’s Enterprise ZORA (*Frauenunternehmen ZORA gGmbH*)
- Working group “Intercultural Competency” for the development of integration policies in Bamberg (*Arbeitsgruppe “Interkulturelle Kompetenz” des Projekts FIP – Flächenübergreifendes Integrationskonzept für die Stadt Bamberg*)
- Working group “Professional Integration, Employment and Economy” for the development of integration policies in Bamberg (*Arbeitsgruppe “Berufliche Integration, Arbeit und Wirtschaft” des Projekts FIP – Flächenübergreifendes Integrationskonzept für die Stadt Bamberg*)
- Working group “Societal, Social and Cultural Integration” for the development of integration policies in Bamberg (*Arbeitsgruppe “Gesellschaftliche, soziale und kulturelle Integration” des Projekts FIP – Flächenübergreifendes Integrationskonzept für die Stadt Bamberg*)

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