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Family Reunification of third-country nationals in Germany

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

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Janne Grote



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Summary

This study describes the legal and administrative framework conditions for the family reunification of third-country nationals with other third-country nationals who are legally residing in Germany. Family reunification with Germans is not the main topic of this study; the relevant framework conditions will only be mentioned in passing. The focus is on the legal framework conditions, the administrative procedures and the available support and integration measures for reunification with members of the core family, i.e. with spouses or registered partners, with minor children or, if the minor children act as sponsors, with their parents. In addition, there will be a short overview of the provisions for the reunification with other family members.

Special protection of marriage and the family

Article 6 of the Basic Law puts marriage and the family under the special protection of the state. The European Convention on Human Rights (Article 8) and the Universal Declaration of Human Rights (Article 16) also call for particular protection of these institutions. In addition, the EU Family Reunification Directive (2003/86/EC)¹, which was adopted in 2003, has created an EU-wide framework for the family reunification of third-country nationals or nationals of the relevant Member State with third-country nationals. All national provisions concerning the family reunification of Germans or third-country nationals with other third-country nationals in Germany are set out in Sections 27 – 36 of the German Residence Act. Civil partnerships receive practically equal treatment with marriages in terms of family reunification. The provisions for the family reunification of EU citizens with third-country nationals are set out in the Act on the General Freedom of Movement for EU Citizens and are therefore not covered by this study.

Scope

Since 2014, the number of residence titles granted to third-country nationals for the purpose of family reunification with Germans or third-country nationals has risen considerably. Between 2010 and 2013, the number of

residence titles granted for the purpose of family reunification amounted to nearly 55,000 per year. In 2014, it rose to 63,677. And in 2015, it rose further, to 82,440.

Most of these residence titles were issued to wives or female registered partners who joined their husbands or registered partners; in 2015, their share in the total number of residence titles amounted to 42.8% (35,319 persons). Minor children are the second-largest group; their share came in between 22.1% in 2011 and 33.9% in 2015. Husbands and male registered partners are the third-largest group, ahead of parents and other family members.

In 2015, the ten most important countries of origin were Syria (15,956 residence titles granted for the purpose of family reunification), Turkey (7,720), the Russian Federation (4,726), India (4,605), Kosovo (3,808), the US (3,098), Ukraine (2,693), China (2,635), Iraq (1,800) and Bosnia and Herzegovina (1,775).

Family members eligible for family reunification

The right to family reunification refers above all to the core family, i.e. spouses and registered partners as well as minor children who join their parents or parents who join their unaccompanied minor children. Under certain conditions, other family members may migrate to Germany as well.

Conditions

Generally speaking, there are six central conditions for family reunification with third-country nationals:

- The sponsor must possess a settlement permit, an EU long-term residence permit, a residence permit or an EU Blue Card in Germany. As a rule, third-country nationals who are granted the right to asylum, who are recognised refugees and beneficiaries of subsidiary protection enjoy privileged treatment; however, this privileged treatment is currently restricted for the latter group (see chapter 2.1.4).
- The sponsor must be able to provide sufficient living space,
- healthcare insurance and
- sufficient means of subsistence for themselves and their family members.

¹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. The Directive does not apply to Denmark, the UK and Ireland.

- In addition, certain groups of immigrants will need to provide proof of their German language skills before they are issued with a visa and/or successfully attend language and orientation courses in the framework of the integration course after their arrival in Germany.
- Spouses and registered partners usually must be at least 18 years of age.

Privileged treatment

Certain conditions for family reunification may or are to be waived for certain groups of immigrants. This applies, for example, to the requirement of secure subsistence in the case of resettlement refugees, third-country nationals who are granted the right to asylum, recognised refugees and beneficiaries of subsidiary protection, provided that they file the application for family reunification within three months after the final recognition of their protection status or, for resettlement refugees, after being granted a residence permit. After this transition period, the conditions may be waived. In addition, other requirements (such as the proof of a sufficient knowledge of German) may be waived for certain groups of persons.

Restrictions

The Act on the Introduction of Accelerated Asylum Procedures, which entered into force on 17 March 2016, restricted family reunification for certain beneficiaries of subsidiary protection. Family reunification will be suspended until 16 March 2018 for all those who were granted a residence permit for subsidiary protection purposes after 17 March 2016 (Section 104 subs. 13 of the Residence Act). This will, as a rule, also apply to parents who want to join their unaccompanied minor children; during the two-year suspension, admission for family reunification grounds will only be possible in cases of special hardship under international law provisions or for urgent humanitarian reasons. Once this transition period is over, the provisions which were in force since 1 August 2015 will automatically be reinstated (see chapter 2.1.4).

Exclusions

Family reunification will not be permitted in case of a forced marriage or forced civil partnership or a marriage or civil partnership of convenience. In addition, the application for family reunification may be refused if the sponsor does not meet certain requirements, in particular the requirement of sufficient means of subsistence. Family

reunification will not be permitted either if the sponsor is non-enforceably or enforceably required to leave the country or belongs to a number of other status groups.

Challenges

The significant increase in the number of asylum applicants and beneficiaries of protection over the last few years has created considerable challenges for both the families and for the German diplomatic missions abroad, particularly in the neighbouring countries of Syria, where visa applications for Germany are processed. Even though numerous measures have been taken to accelerate the procedure, the staff capacities are not sufficient to process all applications quickly; in fact, waiting periods for filing an application temporarily amounted to more than one and a half years at certain diplomatic missions. Additional staff increases, infrastructural measures and accelerated procedures have been introduced to tackle the backlog; however, due to the significant increase in the number of beneficiaries of protection, the number of persons entitled to file an application and the number of actual applicants is rising as well.

The European Migration Network

The European Migration Network (EMN) was launched by the European Commission in 2003 on behalf of the European Council in order to satisfy the need of a regular exchange of reliable information in the field of migration and asylum at the European level. Since 2008, Council Decision 2008/381/EC forms the legal basis of the EMN and National Contact Points have been established in the EU Member States (with the exception of Denmark, which has observer status) plus Norway.

The EMN's role is to meet the information needs of European Union institutions, Member States' authorities and institutions as well as the wider public by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in these areas. The National Contact Point for Germany is located at the Federal Office for Migration and Refugees in Nuremberg. Its main task is to implement the annual work programme of the EMN. This includes the drafting of the annual policy report "Migration, Integration, Asylum" and of up to four topic specific studies, as well as answering Ad Hoc Queries launched by other National Contact Points or the European Commission. The German National Contact Point also carries out visibility activities and networking in several forums, e.g. through the organisation of conferences or the participation in conferences in Germany and abroad. Furthermore, the National Contact Points in each country set up national networks consisting of organisations, institutions and individuals working in the field of migration and asylum.

In general, the National Contact Points do not conduct primary research but collect, analyse and present existing data. Exceptions might occur when existing data and information are not sufficient. EMN studies are elaborated in accordance with uniform specifications valid for all EU Member States plus Norway in order to achieve comparable EU-wide results. Furthermore, the EMN has produced a Glossary, which ensures the application of comparable terms and definitions in all national reports and is available on the national and international EMN websites.

Upon completion of national reports, the European Commission drafts a synthesis report with the support of a service provider. This report summarises the most significant results of the individual national reports. In addition, topic-based policy briefs, so-called EMN Informs, are

produced in order to present and compare selected topics in a concise manner. The EMN Bulletin, which is published quarterly, informs about current developments in the EU and the Member States. With the work programme of 2014, the Return Expert Group (REG) was created to address issues around voluntary return, reintegration and forced return.

All EMN publications are available on the website of the European Commission Directorate-General for Migration and Home Affairs. The national studies of the German National Contact Point as well as the synthesis reports, Informs and the Glossary are also available on the national website: www.emn-germany.de

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Introduction

Public and political debates about family reunification have intensified during the last few years, as, not least due to the war in Syria, the number of asylum applicants and residence titles granted for the purpose of protections has risen palpably. With beneficiaries of protection enjoying particular rights to family reunification – in particular with the core family – the focus shifted to family members who might want to join beneficiaries of protection and are entitled to do so. In June 2016, the Federal Office for Migration and Refugees (BAMF) released a forecast according to which each Syrian refugee entitled to protection was likely to be joined by 0.9 to 1.2 family members in Germany (BAMF 2016a). Since more than half a million Syrians came to Germany in 2015 and 2016, many of whom applied for asylum and were or will be granted a protection status, this means that up to half a million Syrian family members might move to Germany in the coming years. For some beneficiaries of subsidiary protection, a two-year restriction on family reunification was put in place until 16 March 2018. As this type of protection accounts for a significantly higher share in the aggregate number of protections granted in 2016, the arrival of family members of beneficiaries of subsidiary protection will be delayed. In addition to this, there are obviously family members, e.g. spouses or registered partners, who join third-country nationals² who are legally resident in Germany, for example for work purposes, or Germans.

The conditions for family reunification depend on the residence status of the sponsor and the degree of kinship of the family members who want to join them. This focus study gives an overview of the legal and administrative framework conditions for family reunification broken down by different status groups in Germany. The focus is on third-country nationals joining other third-country nationals. The provisions for family reunification with German nationals will only be mentioned in passing, and the provisions for family reunification of third-country nationals with EU citizens are not part of this study. The latter are set out in the Act on the General Freedom of Movement for EU Citizens (FreizügG/EU).³

2 Pursuant to Article 2 of the Schengen Borders Code, third-country nationals are persons who are not EU-country nationals and do not enjoy the freedom of movement.

3 For an overview of the provisions concerning family reunification under the Act on the General Freedom of Movement for EU Citizens see for example Kreienbrink (2007: 33 et seq.) and the General Administrative Regulation to the Act on the General Freedom of Movement for EU Citizens.

This study will deal with the following questions:

- What are the legal framework conditions for family reunification, and how is the procedure structured?
- Which conditions, support obligations and obligations will the sponsor and the family member(s) joining them need to fulfill?
- How has the strong increase in the number of asylum seekers since 2015 affected the framework conditions for family reunification?
- What are good practices in the area of family reunification, and where are the challenges?
- Which changes to national law have been triggered by EU law or decisions by the European Court of Human Rights or the European Court of Justice, and how was the EU Family Reunification Directive (2003/86/EC) adopted in 2003 translated into national law?

The most important sources for this study are laws and administrative rules on residence law. Notices and leaflets by embassies and foreigners authorities also provided important information. Statistics by the Central Register of Foreigners and the visa statistics of the Federal Foreign Office were used for data on family reunification, as were answers by the Federal Government to parliamentary questions and enquiries related to this issue.⁴

Chapter 1 will give an overview of the legal framework conditions for family reunification and the number of family reunifications in the last few years. Chapter 2 will describe the conditions for certain groups of persons who are entitled to family reunification in more detail. Chapter 3 will give information on specific requirements on certain family members, both before their arrival in Germany (e.g. language courses) and afterwards (e.g. integration courses). Chapter 4 will provide an overview of the individual procedural steps, from the checking of evidence for compliance with the requirements to the procedural steps and, finally, the length of the procedure. Chapter 5 will contain information on the support available to persons who have moved to Germany in the framework of family reunification. Chapter 6 will deal with international and national court decisions which have influenced the legal situation in Germany. And Chapter 7 will finally summarise the results of this study.

4 We would like to thank Laura Kotzur for the proofreading of the study she did in the framework of her internship at the research centre of the Federal Office for Migration and Refugees.

1 Overview of the situation on family reunification

1.1 Basis for developing legislation / policy on family reunification

Article 6 of the Basic Law puts marriage and the family under the special protection of the state. The European Convention on Human Rights (Article 8)⁵ and the Universal Declaration of Human Rights (Article 16) also call for particular protection of these institutions. In addition, the EU Family Reunification Directive (2003/86/EC)⁶, which was adopted in 2003, has created an EU-wide framework for the family reunification of third-country nationals or nationals of the relevant Member State with third-country nationals. All national provisions concerning the family reunification of Germans or third-country nationals with other third-country nationals are set out in Sections 27 – 36 of the German Residence Act. Civil partnerships receive practically equal treatment with marriages in terms of family reunification (Section 27 subs. 2 of the Residence Act).

In order to protect marriage, civil partnerships and the (extended) family, third-country nationals may be permitted to join their family relatives, provided that the latter are legally resident in Germany. The EU Directive on the right to family reunification (Council Directive 2003/86/EC) gives the following reasons for this principle:

“Family reunification is a necessary way of making family life possible. It helps to create sociocultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental Community objective stated in the Treaty” (Recitals, par. 4, Council Directive 2003/86/EC).

5 Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) says that “everyone has the right to respect for his private and family life” and that “there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

6 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. The Directive does not apply to Denmark, the UK and Ireland.

The provisions for the entry and residence of foreign spouses and registered partners, children, parents and other family members of Germans and third-country nationals living in Germany are set out in sections 27 – 36 of the Residence Act (AufenthG), which also translate the requirements of the Family Reunification Directive into German law (see Chapter 2). In contrast, the provisions for the entry and residence of third-country nationals joining EU citizens in Germany are spelled out in the Act on the General Freedom of Movement for EU Citizens.

“In line with the EU right of free movement and residence, German law gives Union citizens the same rights as German citizens. As a result, the residence legislation for Union citizens and their families is different from that for third country nationals. EU citizens enjoy a preferential treatment in terms of family reunification, which is characterised by systematic and uniform regulations for all groups of Union citizens, a broad definition of “family”, legal entitlements, minimal preconditions and the waiver of integration criteria” (Walter 2007: 275; quoted in Kreienbrink/Rühl 2007: 33).

Below, we will focus on the framework conditions for third-country nationals joining other third-country nationals and, to some extent, the conditions for joining Germans. However, the provisions governing family reunification with EU citizens are not covered by this study.

1.2 Changes to law, policy and/or practice in the field of family reunification (since 2011)

In the past five years several changes to the legal framework of family reunification have been passed by the legislator, as presented in brief in the following section.

Act to combat forced marriages

On 1 July 2011, the so-called Act to combat forced marriages and to better protect the victims of forced marriages, and to amend further provisions governing residence and asylum law (Zwangsheiratsbekämpfungsgesetz)⁷ entered into force in order to enhance protection of the victims of forced marriages. To this end, Section 51 subs. 4 of the Residence Act was amended. Before this subsection was amended, residence permits expired once the third-country national had been residing outside the Federal Republic of Germany for six months. This meant victims of forced marriages who had been abducted to another country risked losing their residence permit. The amendment allows victims of forced marriage and abduction to another country to retain a right of return of at most 10 years after leaving Germany. However, they must return three months after conclusion of the exigency at the latest. In these instances, the usual requirements for re-entry of self-sufficiency and the original application for a residence permit after the 21st birthday are waived (BAMF/EMN 2012: 33 et seq.). In addition to the amended legislation on returns, the Act to combat forced marriages also extended the term within which third-country nationals obtain an independent right of residence from two years to three years (Section 31 subs. 1 no. 1 of the Residence Act). This is justified in that the independent right of residence designed to protect victims could be an incentive for marriages of convenience (BAMF/EMN 2013: 24 et seq.).

Transposition of Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

The Act on the transposition of Council Directive 2009/50/EC⁸ of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment entered into force on 1 August 2012, which also contains amendments to the right of family reunification. Amongst others, family members of persons holding an EU Blue Card do not have to prove they have a command of the German language prior to entry and have full access to the labour market as soon as they enter the Federal Republic (EMN/BAMF 2013: 24).

Act improving the Rights of foreign workers and persons in need of special protection

On 6 September 2013 the Act improving the Rights of foreign workers and persons in need of special protection (Gesetz zur Verbesserung der Rechte von international Schutzberechtigten und ausländischen Arbeitnehmern) entered into force. Since then, persons granted a residence permit for the purposes of family reunification have been allowed to take up employment (Section 27 subs. 5 of the Residence Act).

Transposition of the Qualification Directive (2011/95/EU)

On 1 December 2013 the Act Implementing Council Directive 2011/95/EU⁹ (Gesetz zur Umsetzung der Richtlinie 2011/95/EU) entered into force. Amongst others, the group of persons who can be granted family protection was expanded and now includes the parents and siblings of persons entitled to protection (Section 36 subs. 2 of the Residence Act; Section 26 Asylum Law; EMN/BAMF 2014: 57).

Act on the redefinition of the right to stay and the termination of residence

On 1 August 2015, the Act on the redefinition of the right to stay and the termination of residence entered into force. Concerning family reunification several legal changes were introduced, e. g. for resettlement refugees, victims of human trafficking or well-integrated adolescents.

Since 1 August 2015 refugees who were admitted within the resettlement-program in Germany are granted a residence permit pursuant to the new Section 23 subs. 4 of the Residence Act. Their status and rights were equated to those of beneficiaries of protection thus allowing also for reunification with family members.

Family reunification with victims of human trafficking, who were granted a residence permit pursuant to section 25 subs. 4a of the Residence Act, was not possible so far. Since 1 August 2015 the Residence Act permits victims of human trafficking to have their families rejoin them in Germany, provided that the general preconditions for family reunification are met and that the reunion is justified on humanitarian grounds, for reasons of international law or in order to safeguard political interests of the Federal

⁷ Act to combat forced marriages and to better protect the victims of forced marriages, and to amend further provisions governing residence and asylum law, Federal Law Gazette I no. 33 of 30 June 2011, p. 1266.

⁸ Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

⁹ Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

Republic of Germany. Section 29 subs. 3 of the Residence Act was amended accordingly. These regulations apply primarily to the spouse, the registered partner or the child of legally residing victims of human trafficking in Germany; for parents some restrictions remain.

Furthermore, so far, family reunification with well-integrated young people and adolescents whose deportation had been suspended and who held a residence permit pursuant to section 25a subs. 1 of the Residence Act was not allowed. However, since 1 August 2015, a spouse, a registered partner and minor, unmarried children may be permitted entry, provided that the general conditions for the entry of the families are met and the spouse or a minor, unmarried children join their family member in Germany on humanitarian grounds, for reasons of international law or in order to safeguard political interests of the Federal Republic of Germany. Section 29 subs. 3 of the Residence Act was amended accordingly.

The Act granted family members of third-country nationals eligible for subsidiary protection the right to re-join their family. However, still in 2015 an initiative was started, to suspend this right again. It concluded in Article 2 of the Act on the Introduction of Accelerated Asylum Procedures which entered into force at the beginning of 2016, suspending the right for family reunification for persons eligible for subsidiary protection from 17 March 2016 until 16 March 2018 (Section 104 subs. 13 of the Residence Act).

Act on the Introduction of Accelerated Asylum Procedures

The Act on the Introduction of Accelerated Asylum Procedures, which entered into force on 17 March 2016, introduced a transitional period for family reunification with beneficiaries of subsidiary protection. Family reunification will be suspended until 16 March 2018 for all those who were granted a residence permit for subsidiary protection purposes after 17 March 2016. After that date, the right of family reunification will automatically be reinstated (Section 104 subs. 13 of the Residence Act). The three-month period during which beneficiaries of subsidiary protection have easier access to family reunification will begin on 16 March 2018.

1.3 Number of family members joining sponsors by groups of applicants and by origin (2010-2015)

The number of residence titles granted to third-country nationals for the purpose of family reunification with Germans or third-country nationals has risen considerably since 2014. Between 2010 and 2013, the number of

residence titles granted for the purpose of family reunification amounted to nearly 55,000 per year. In 2014, the number of residence titles granted for the purpose of family reunification jumped to 63,677 – a year-on-year increase of 13.6% (2013: 56,046). In 54.2% of the cases (34,482 instances), the applicants wanted to join third-country nationals in Germany. In 2015, the number of residence titles granted for the purpose of family reunification rose further, to a total of 82,440, and the share of residence titles granted for the purpose of family reunification with third-country nationals increased to 64.0% (52,780; see table 1).

Table 1 gives an overview of the different groups of persons who entered Germany for the purpose of family reunification with third-country nationals¹⁰, of the total number of residence permits granted for the purpose of family reunification with Germans and of the percentages of the total number of family reunifications in the period between 2010 and 2015. The figures of the Central Register of Foreigners (AZR) cover all residence permits granted for the purpose of family reunification in the relevant year. This means that they also include third-country nationals who initially entered Germany for another purpose than family reasons or did not require a visa¹¹ to enter the country and applied for a residence title for the purpose of family reunification later on. This is why the data from the Central Register of Foreigners differ from the visa statistics of the Federal Foreign Office (see Appendix).

In absolute terms, children joining their parents and wives joining their husbands, respectively their female registered partners joining their female registered partners were the largest groups of migrants for family reasons. In each year since 2010, each of the two groups has accounted for more than 20.0% in all family reunifications in Germany. In 2015, their shares rose considerably further. Residence permits for children joining their parents now account for 32.4% of the total number of residence permits granted for the purpose of family reunification with third-country nationals in 2015. Once again, wives and registered

¹⁰ Family reunification with EU citizens is not taken into account, as it is covered by the provisions of the Act on the General Freedom of Movement for EU Citizens and not the Residence Act. These data are separately stored in the Central Register of Foreigners. Under certain circumstances, EU citizens may be granted a right to family reunification under national law, namely if these provisions are more favourable in the individual case (margin no. 3.0.1 of the General Administrative Regulation to the Act on the General Freedom of Movement for EU Citizens).

¹¹ Citizens of the following states do not require a visa to enter Germany and may apply for the necessary residence title after their entry: Andorra, Australia, Honduras, Israel, Japan, Canada, Republic of Korea, Monaco, New Zealand, San Marino and USA.

Table 1: Family reunification with third-country nationals and Germans by groups of applicants (2010-2015)

Arrival of ...	Family reunification with third-country nationals					Family reunification with Germans	Family reunification total	
	Wives/ registered partners	Husbands/ registered partners	Children	Parents	Other family members			
2010	Number	12,462	2,729	11,845	43	277	26,680	54,036
	%	23.1	5.1	21.9	0.1	0.5	49.4	100
2011	Number	12,712	2,896	11,016	14	207	26,650	53,495
	%	23.8	5.4	20.6	0.0	0.4	49.8	100
2012	Number	13,156	2,902	11,565	26	231	26,936	54,816
	%	24.0	5.3	21.1	0.0	0.4	49.1	100
2013	Number	13,418	2,834	12,504	24	236	27,030	56,046
	%	23.9	5.1	22.3	0.0	0.4	48.2	100
2014	Number	15,712	3,236	15,041	107	386	29,195	63,677
	%	24.7	5.1	23.6	0.2	0.6	45.8	100
2015	Number	21,074	3,724	26,714	522	746	29,660	82,440
	%	25.6	4.5	32.4	0.6	0.9	36.0	100

Source: Central Register of Foreigners; see also Wälde/Evers: forthcoming.

partners¹² joining their foreign husbands and registered partners were the second-largest group in 2015, at 25.6% (21,074 persons). Including wives and registered partners joining their German spouses and registered partners, the share of this group in the total number of residence permits granted for family reasons (82,440) rose to 42.8% (35,319 persons).

Residence status of the sponsors living in Germany

In Germany, the residence titles of the sponsors joined by family members have not been systematically stored in the Central Register of Foreigners until July 2016. For this reason, it was impossible to give meaningful details concerning this issue at the time of writing.

Groups of origin

The Central Register of Foreigners stores the following facts: the sex, the nationality and the age of the immigrants, the fact whether a husband or wife (or female or male registered partner) joins a German or foreign partner and the fact whether a parent, a child or another family member joins a German or third-country national in Germany. Table 2 gives an overview of the 20 most important countries of origin of family members in 2015; taken

together, they accounted for 62,795 of the 82,440 residence permits granted for the purpose of family reunification (76.2%). At 15,956 (19.4%), Syrian family members were the most important group of origin in 2015 and replaced Turkish nationals, who had been the most important group of origin in the preceding years. At 7,720, Turkish family members were the second-largest group of origin (8.4%), and Russians followed in the third place (4,726; 5.7%).

Within the groups of origin, the share of the individual groups of family members differs markedly. Most of the Syrian nationals were children, wives respectively registered partners (91.5% of all Syrian immigrants for the purpose of family reunification), but these groups of family members had only a share of 35.4% in all Turkish reunifications and of 35.2% in Russian reunifications, i.e. just above one-third. Among the latter, the number of family members joining Germans was much higher than among Syrians (see Table 2 and, for the 20 most important countries of origin in the years between 2010 and 2014, Tables 4 – 9 in the Appendix).

¹² Since, pursuant to Section 27 subs. 2 of the Residence Act, the provisions for the immigration of dependants and spouses (Sections 28 – 31) shall apply mutatis mutandis to enable the establishment and maintenance of a registered partnership, the statistics of the Central Register of Foreigners do not differentiate between spouses and registered partners.

Table 2: The top 20 countries of origin of immigrants for family reunification purposes (2015)

Arrival of ...	Wives/ female registered partners joining Germans	Husbands/ male registered partners joining Germans	Wives/ female registered partners joining foreigners	Husbands/ male registered partners joining foreigners	Children joining Germans	Children joining foreigners	Parents joining Germans	Parents joining foreigners	Other family members joining Germans	Other family members joining foreigners	Total
Syria	128	57	4,648	397	10	9,952	40	345	0	379	15,956
Turkey	1,271	2,072	1,822	703	54	910	862	2	4	20	7,720
Russian Federation	1,953	374	705	98	247	958	363	2	1	25	4,726
India	165	133	2,523	132	21	1,550	78	0	0	3	4,605
Kosovo	389	468	1,251	320	52	1,163	162	0	0	3	3,808
USA	382	624	693	161	23	931	268	4	4	8	3,098
Ukraine	1,072	174	525	73	60	641	135	0	0	13	2,693
China	612	45	874	167	11	776	141	0	0	9	2,635
Iraq	157	63	396	59	14	807	104	91	1	108	1,800
Bosnia and Herzegovina	130	161	557	270	3	552	99	0	1	2	1,775
Japan	115	17	824	13	0	748	26	0	0	0	1,743
Morocco	696	442	225	45	9	116	137	1	1	0	1,672
Serbia (incl. former Serbia & Montenegro)	200	187	394	215	5	357	255	1	0	3	1,617
Pakistan	205	122	482	40	58	553	79	2	0	2	1,543
Thailand	939	54	32	10	15	259	123	0	0	5	1,437
Brazil	409	151	345	51	11	313	143	1	1	7	1,432
Macedonia	104	139	355	114	13	345	101	0	0	3	1,174
Tunisia	295	529	164	18	6	65	93	0	0	1	1,171
Vietnam	287	42	199	91	10	306	185	1	0	6	1,127
Iran	256	86	366	106	7	208	22	3	0	9	1,063
All countries	14,245	8,524	21,074	3,724	1,219	26,714	5,656	522	16	746	82,440

Source: Central Register of Foreigners; issued residence permits for family reasons, incl. those, who entered without the need for visa or initially entered for a different purpose

2 Definition of sponsor and family members

2.1 Who can be a sponsor to an application for family reunification

Pursuant to the General Administrative Regulation to the Residence Act, the right to family reunification extends above all to spouses and the core family within the meaning of a parent-child-relationship, which may be defined by birth or by law. Article 6 of the Basic Law thus also applies to adopted, foster and stepchildren (36.2.1.2 of the General Administrative Regulation to the Residence Act). Section 27 subs. 2 of the Residence Act provides for the virtually equal treatment of marriage and civil partnerships (Kluth/Husch 2016: Section 27 subs. 2 of the Residence Act, margin no. 52), which means that foreign registered partners may join their partners in Germany.

Third-country nationals who want to act as sponsors for a spouse or registered partner, a child, a parent or another family member will usually need to meet the following conditions:

- possession of a settlement permit,
- an EU long-term residence permit,
- a residence permit or
- an EU Blue Card (section 29 subs. 1 no. 1 of the Residence Act).

In addition, there must be sufficient living space for the sponsor and the family member joining them (Section 29 subs. 1 no. 2 of the Residence Act). Moreover, the sponsor will usually have to prove that he or she can provide for him- or herself and the family member joining them. The identity and nationality of the involved persons must be verified, and the passport obligation must be met. And finally, the interests of the Federal Republic of Germany must not be compromised or jeopardised and there must be no grounds for expulsion (Section 5 subs. 1 of the Residence Act).

Both the sponsor and, in some cases, the immigrating family members will need to meet additional requirements before foreign spouses or registered partners, children, parents and other family members can enter Germany. However, there are also several groups of persons who can

benefit from preferential treatment and may be partially or fully exempt from the requirements for family reunification set out below.

2.1.1 Family reunification of spouses and registered partners

In case of a family reunification of a spouse or registered partner with a third-country national in Germany, besides the above mentioned regulations and requirements, in general, both spouses or partners need to be at least 18 years of age (Section 30 subs. 1 sentence 1 no. 1 of the Residence Act) and the immigrating spouse or registered partner “is able to communicate in the German language at least on a basic level” (Section 30 subs. 1 sentence 1 no. 2 of the Residence Act). Furthermore, the spouse or registered partner already residing in Germany must either possess

- a settlement permit,
- an EU long-term residence permit,
- an EU Blue Card,
- a residence permit for research reasons,
- a residence permit for third-country nationals being granted the right to asylum, as a recognised refugee or a beneficiary of subsidiary protection, or
- has held a residence permit for two years and the residence permit is not subject to a subsidiary provision pursuant to Section 8 subs. 2¹³ or the subsequent issuance of a settlement permit has not been ruled out by virtue of a rule of law, or
- is in possession of a residence permit, if the marriage or civil partnership existed at the time of said permit being granted and the duration of the third-country nationals's stay in the federal territory is expected to exceed one year,

¹³ “As a general rule, the residence permit shall not be extended if the competent authority has prohibited an extension in the case of a stay which is of only a temporary nature in accordance with the purpose of residence or at the time the residence permit was last extended” (Section 8 subs. 2 of the Residence Act).

- possesses a residence permit pursuant to Section 38a of the Residence Act and the marriage or civil partnership already existed in the Member State of the European Union in which the third-country national has the status of a long-term resident (Section 30 subs. 1 sentence 1 no. 3 of the Residence Act).

The age requirement, the requirement to being able to communicate in the German language at least on a basic level as well as further requirements may be waived for some of the mentioned status groups under specific conditions (Section 30 subs. 1 sentence 2 and subs. 2 of the Residence Act; see chapter 3.2). However, a reunification of spouses and registered partners may also be denied (see chapter 2.1.6).

2.1.2 Family reunification of minors

The main provisions for the immigration of minor children for family reasons are set out in Section 32 of the Residence Act, with the protection pursuant to Article 6 of the Basic Law also extending to adopted, foster and stepchildren. The General Administrative Regulation sets out the following requirements:

- “(1) The minor, unmarried child of a foreigner shall be granted a residence permit if the parents or the parent possessing the sole right of care and custody hold a residence permit, an EU Blue Card, a settlement permit or an EU long-term residence permit.
- (2) If the minor, unmarried child is aged 16 or over and if it does not relocate the central focus of its life to Germany together with its parents or the parent possessing the sole right of care and custody, subs. 1 shall only apply if the child speaks German and appears, on the basis of his or her education and way of life to date, that he or she will be able to integrate into the way of life prevailing in the Federal Republic of Germany. The first sentence above shall not apply if
1. the foreigner possesses a residence permit in accordance with Section 23 subs. 4 [re-settlement refugees; J.G.], Section 25 subs. 1 [persons entitled to asylum; J.G.] or subs. 2 [recognised refugees; J.G.], a settlement permit in accordance with Section 26 subs. 3 or, after being granted a residence permit in accordance with section 25 subs. 2 sentence 2 second alternative was granted a settlement permit in accordance with Section 26 subs. 4 [beneficiaries of subsidiary protection; J.G.] or

2. the foreigner or his or her spouse living together as a family possess a settlement permit in accordance with Section 19 [highly qualified workers; J.G.] or an EU Blue Card.

- (3) Where parents share the right of care and custody, a residence permit pursuant to subs. 1 or 2 should also be granted for the purpose of joining just one parent, if the other parent has given his or her consent to the child's stay in Germany or if the relevant binding decision has been supplied by a competent authority.
- (4) A minor, unmarried child of a foreigner may otherwise be granted a residence permit if necessary in order to prevent special hardship on account of the circumstances pertaining to the individual case concerned. The child's well-being and the family situation shall be taken into consideration” (36.2.1.2 of the General Administrative Regulation to the Residence Act).

There is one other constellation under which minor children may have a right to join their family, namely if, due to the parents' joining a minor child who benefits from protection in Germany, any minor siblings of the refugee would be left alone in the family's country of origin or residence. In this case, the minor siblings may be entitled to joining their brother or sister (Oberhäuser 2016: Section 36 of the Residence Act, margin no. 11).

2.1.3 Scope of family reunification beyond core members of the family

The term “other family members” mainly refers to the parents of German or foreign adult or minor children, adult children who want to join their parents or minor children who want to join adult close family members. They and other family members, such as siblings, aunts, uncles, nieces and nephews, cousins, “may be granted a residence permit for the purpose of subsequent immigration to join the foreigner, if necessary in order to avoid particular hardship” (Section 36 subs. 2 first sentence of the Residence Act). The General Administrative Regulation to the Residence Act defines in more detail what particular hardship means in the context of the immigration of other family members. Their moving to Germany may be possible if there are circumstances

“which suggest that either the family member living in Germany or the family member wanting to join them is dependent on family support which can only be provided in the Federal Republic of Germany (e.g. in case of particular need of care). In the case of minor children, the wellbeing of the child and his or her age shall be taken into account. [...] Circumstances

justifying the need of family care will depend on the individual case (e.g. illness, handicaps, need of care, psychological needs). Circumstances arising from the general situation of living in the country of origin of the immigrating family member cannot be taken into consideration in this context. This means that, for example, unfavourable educational, economic, social or other conditions in the country of origin are not a case of particular hardship. Political persecution will not play a decisive role either. Urgent humanitarian reasons not related to the separation of the family members will only be taken into account if residence is granted on humanitarian grounds (Sections 22 et seq.); they are not equivalent to particular hardship within the meaning of Section 36. Establishing life as a family with a family member living in Germany is usually not necessary to prevent particular hardship if other family members are living abroad who are able to care for and educate a child” (36.2.2.1 – 36.2.2.4 of the General Administrative Regulation to the Residence Act).

In detail, the following provisions apply:

Parents

The biological and adoptive parents of a minor third-country national who is resident in Germany shall be granted a residence permit if no parent possessing the right of care and custody is resident in the federal territory and if the child possesses a residence permit or a settlement permit as a resettlement refugee, third-country nationals who are granted the right to asylum, a recognised refugee or a beneficiary of subsidiary protection. In these cases, the requirement of sufficient livelihood and adequate living space shall be waived (Oberhäuser 2016: Section 36 of the Residence Act, margin no. 3).

If a subsequent immigration of parents is applied for and if this causes the minor siblings to remain, a subsequent immigration of the siblings may be applied for pursuant to Section 36 subs. 3 of the Residence Act. What is necessary for the approval is a particular hardship which needs to result from the separation of siblings. This hardship needs to be checked in each single case. The mere (self-induced) separation from the parents does not in itself pose a particular hardship.

Furthermore, even in case of a particular hardship, subsistence must still be secured by the sponsor in Germany.

For parents of adult children, the conditions to prevent particular hardship pursuant to Section 36 subs. 2 of the Residence Act shall apply.

Adult children

Immigration is possible in order to prevent particular hardship. However, married minor or adult children may not join their parents in Germany for “as long as the marriage of the child lasts. This does not affect the possibility of them being granted a residence title for other reasons” (36.2.1.4.2 of the General Administrative Regulation to the Residence Act).

Same-sex partners who are married

Germany does not recognise a marriage between partners of the same sex. A same-sex marriage concluded abroad will be recognised as a civil partnership in Germany (see below, Same-sex civil partnerships).

Same-sex partners who are registered

A registered partner of the same sex may join his or her partner in Germany; the conditions are practically the same as for spouses (Section 27 subs. 2 of the Residence Act). However, a same-sex marriage lawfully concluded abroad will not be recognised as a marriage, but as a civil partnership in Germany. The marriage concluded abroad will not be dissolved (LSVD 2016).

Non-married partners

As a rule, immigration for the purpose of family reunification is not possible; however, the deportation of the partner may be suspended or they may be granted a residence permit pursuant to Section 25 subs. 4 of the Residence Act until the date of the marriage or the registration of the partnership.

Complete orphan (e. g. grandchildren)

“The immigration of minor other family members to relatives in the ascending line will only be permitted in exceptional circumstances, for example because they are orphans (e.g. grandchildren joining their grandparents) or if the parents are obviously not able to undertake the care and custody of the child in the long run (e.g. due to being in need of care)” (36.2.1.4.1 of the General Administrative Regulation to the Residence Act).

Applicants in polygamous marriages

If a third-country national is married to or living in a civil partnership with more than one partner and if he or she is already living in Germany together with a spouse or registered partner, no other spouse or registered partner shall be granted a residence permit (Section 30 subs. 4 of the Residence Act).

Other dependent' persons

Depending on the individual case, other family members may immigrate if this is necessary to prevent particular hardship, for example because the immigrating family member needs family support which can only be provided (by the family members living) in Germany (36.2 of the General Administrative Regulation to the Residence Act).

2.1.4 Family reunification rules for beneficiaries of subsidiary protection

In principle, being recognised as a person who is entitled to subsidiary protection entitles the beneficiary of subsidiary protection to privileged access to family reunification, just like third-country nationals who are granted the right to asylum and recognised refugees (Section 29 subs. 2 first sentence of the Residence Act). In these cases, certain conditions need not be met or compliance with them can be waived (for example the subsistence requirement; see Chapter 3.1.4). The Act on the Introduction of Accelerated Asylum Procedures, which entered into force on 17 March 2016, restricted family reunification for certain beneficiaries of subsidiary protection. Family reunification will be suspended until 16 March 2018 for all those who were granted a residence permit for subsidiary protection purposes after 17 March 2016 (Section 104 subs. 13 of the Residence Act). After that date, the privileged right to family reunification for beneficiaries of subsidiary protection from 1 August 2015 will automatically be reinstated. The three-month period during which beneficiaries of subsidiary protection have easier access to family reunification will begin on 16 March 2018.

The two-year suspension of the right to family reunification basically applies to all family members, including, for example, parents joining their unaccompanied minor children, if the latter are entitled to subsidiary protection (Deutscher Bundestag 2016c: 3). Though, the Grand Coalition disagreed in particular on parents joining unaccompanied minors who are beneficiaries of subsidiary protection, public criticism of the measure was voiced (BumF 2016) and its compliance with the UN Children's Rights Convention was questioned (Deutscher Bundestag 2016d; DIMRG 2016). The coalition parties therefore agreed on including a provision for cases of particular hardship, according to which family members can join beneficiaries of subsidiary protection even during the two-year suspension period under provisions of international law or on urgent humanitarian grounds (pursuant to Sections 22 and 23 of the Residence Act).

While the number of beneficiaries of subsidiary protection pursuant to Section 4 subs. 1 of the Asylum Act as

compared to the total number of asylum application decisions by the Federal Office for Migration and Refugees declined considerably between 2012 and 2015, it jumped again in 2016 (up to October). In 2012, subsidiary protection was granted in 6,974 cases. This is equivalent to a share of 11.3%; the total number of decisions in 2012 amounted to 61,829 (including rejections and formal decisions). In 2014, subsidiary protection was granted in 5,174 cases or 4.0% out of a total number of 128,911 decisions during that year. And in 2015, subsidiary protection was granted in 1,707 cases. This is equivalent to only 0.6% out of a total number of 282,726 decisions by the Federal Office during that year. Up to October 2016, the share of subsidiary protections rose considerably. Subsidiary protection was granted in 113,488 cases, i.e. 21.4% of all decisions during the first ten months of 2016 (530,034; BAMF 2016d: 10).

2.1.5 Limited right to family reunification for persons granted tolerated stay, victims of human trafficking and other status groups

For specific groups of persons the right of family reunification is only granted in single cases or in cases of special hardship, e.g. under international law provisions or for urgent humanitarian reasons or in order to safeguard political interests of the Federal Republic of Germany (Section 29 subs. 3 sentence 1 of the Residence Act). This is the case, if the third-country national family member shall join a sponsor already residing in Germany, who

- was granted a residence permit for the purpose of admission from abroad in accordance with international law or on urgent humanitarian grounds (Section 22 of the Residence Act),
- was granted a residence permit by the supreme Land authorities in accordance with international law, on humanitarian grounds or in order to uphold the political interests of the Federal Republic of Germany (Section 23 subs. 1 of the Residence Act),
- was granted approval for admission by the Federal Ministry of the Interior in consultation with the supreme Land authorities, in order to safeguard special political interests of the Federal Republic of Germany (Section 23 subs. 2 of the Residence Act),
- was granted a residence permit due to his or her suspension of deportation according to Section 60 subs. 5 or 7 of the Residence Act,

- has been the victim of human trafficking or victim of exploitation under utilization of a deprivation of liberty (Section 25 subs. 4a of the Residence Act)¹⁴,
 - was granted a residence permit in the case of well integrated young people and adolescents (Section 25a subs. 1 of the Residence Act), or
 - was granted a residence permit in the case of a person whose deportation has been suspended and who has become integrated lastingly into the way of life in the Federal Republic of Germany (Section 25b subs. 1 of the Residence Act).
- a third-country national who is enforceably required to leave the federal territory (Section 25 subs. 5 of the Residence Act),
 - some additional status groups (Section 25a subs. 2, Section 25b subs 4, Section 104a subs. 1 sentence 1 and Section 104b of the Residence Act).

2.1.6 Exclusion from the right to family reunification

Family reunification shall not be allowed

- „1. if it is established that the marriage has been entered into or kinship established solely for the purpose of enabling the subsequently immigrating persons to enter and stay in the federal territory or
2. if there are concrete indications that one of the spouses has been forced into marriage“ (Section 27 subs. 2 of the Residence Act).

The family reunification may also be denied if the sponsor does not fulfill specific requirements. This holds true especially in cases where the subsistence is not secure – e.g. if public funds such as basic income or social welfare are obtained (Section 27 subs. 3 of the Residence Act).

Furthermore, in accordance with Section 29 subs. 3 sentence 3 of the Residence Act family reunification shall not be granted in the following cases:

- a third-country national who is non-enforceably required to leave the federal territory (Section 25 subs. 4 of the Residence Act),
- a third-country national, who became a victim to a crime according to Section 10 subs. 1 or Section 11 subs. 1 no. 3 of the Act to Combat Clandestine Employment or according to Section 15a of the German Act on Temporary Work (Section 25 subs. 4b of the Residence Act),

¹⁴ In case of victims of human trafficking or victims of exploitation under utilization of a deprivation of liberty the general rules for family reunification apply, if they are granted a residence permit after their criminal proceeding for humanitarian reasons, for personal reasons or on grounds of public interest on behalf of their continued presence on the Federal territory (Section 25 subs. 4a sentence 3 of the Residence Act).

3 Requirements for exercising the right to family reunification

If family members, spouses or registered partners want to join a sponsor living in Germany, this sponsor will usually need to meet certain requirements (such as the provision of sufficient living space, sufficient means of subsistence; for more details see below). However, the immigrants – in particular spouses and registered partners – will need to comply with certain requirements, too. The following chapters will describe these preconditions and the circumstances under which they may be waived.

3.1 Requirements for exercising the right to family reunification

As a rule, certain minimum requirements in terms of available living space, a secure subsistence and health-care insurance for both the sponsor and the immigrating family member must be met. However, there may be exemptions for certain groups of persons and certain status groups (Chapter 3.1.4).¹⁵

3.1.1 Accommodation

Upon receiving an application for family reunification, the local foreigners authority will check whether the sponsor who already lives in Germany can provide sufficient living space for him- or herself and the family member joining them (Section 29 subs. 1 no. 2 of the Residence Act). The following criteria will be used:

“The space which is required to accommodate a person in need of accommodation in state-subsidised welfare housing shall constitute sufficient living space. Living space which does not comply with the statutory provisions for Germans with regard to condition and occupancy shall not be adequate for foreigners. Children up to the age of two shall not be included in calculation of the sufficient living space for the accommodation of families” (Section 2 subs. 4 of the Residence Act).

The General Administrative Regulation fleshes out these provisions:

“Without prejudice to state provisions, sufficient living space is usually deemed to be available if 12 sqm of living space are available to each family member aged above six and 10 sqm of living space for each family member aged below six. Adequate availability of the facilities (kitchen, bathrooms, lavatories) must be ensured. A shortfall of about ten per cent is acceptable” (2.4.2. General Administrative Regulation to the Residence Act).

The requirement to provide sufficient living space may or is to be waived for certain groups of immigrants, amongst others in case of resettlement refugees, third-country nationals who are granted the right to asylum and recognised refugees (see Chapter 3.1.4.).

3.1.2 Sufficient financial resources

The granting of a residence title for family reasons generally presupposes that the sponsor’s own subsistence as well as the subsistence of the reuniting family members is secure. This requirement also holds true for the health insurance (Section 5 subs. 1 no. 1 in conjunction with Section 2 subs. 3 of the Residence Act). A third country national's subsistence shall be secure when he or she is able to earn a living for him- or herself as well as for the family members (prospective maintenance requirement) without recourse to public funds. „Drawing the following benefits shall not constitute recourse to public funds:

1. Child benefits,
2. children’s allowances,
3. child-raising benefits,
4. parental allowances,
5. educational and training assistance in accordance with Book Three of the Social Code, the Federal Education Assistance Act or the Upgrading Training Assistance Act,
6. public funds based on own contributions or granted in order to enable residence in Germany and
7. Grants of Advances for the Maintenance of Children“ (Section 2 subs. 3 sentence 1 of the Residence Act).

¹⁵ The Family Reunification Directive also lists sufficient living space, healthcare insurance and livelihood (without recourse to social assistance) as core conditions (Article 7 paragraph 1 of the Directive 2003/86/EC).

It makes no difference whether public funds are actually obtained; rather it is decisive whether the sponsor is eligible for public funds. The competent foreigners office evaluates the individual determination of the needs and makes a predictive decision on the basis of existing income and account statements in consideration of the employment contract (duration, scope) (see chapter 3.1.4 for exemptions for specific groups of persons and chapter 4.2.2 for verification measures of the secured subsistence).

3.1.3 Healthcare insurance

“A foreigner who is enrolled in a statutory health insurance fund shall be deemed to have sufficient health insurance coverage. Other family members’ contributions to household income shall be taken into account when issuing or renewing residence permits allowing the subsequent immigration of dependants“ (Section 2 subs. 3 sentence 3 – 4 of the Residence Act). As a general rule, family members are co-insured under the statutory health insurance of the sponsors living in Germany (family insurance). Children are categorically co-insured under the health insurance of their parents.

3.1.4 Exemptions made on e.g. hardship clauses

The requirement of secure subsistence may be waived if “for reasons of a superior law, e.g. Article 6 of the basic law or in reference to Article 8 of the European Convention on Human Rights (respect for one’s family life), the issuance of a visa for family reunification is imperative. Such circumstances may be present where establishing family life in the country of origin is not possible” (5.1.1.2 General Administrative Regulation to the Residence Act). This comes into question for specific groups of persons and status groups in Germany:

The requirements for secure subsistence (Section 5 subs. 1 no. 1 of the Residence Act) and the provision of sufficient living space (Section 29 subs. 1 no. 2 of the Residence Act) may be waived. This applies for

- resettlement-refugees with a residence permit (Section 23 subs. 4 of the Residence Act),
- a person granted a residence permit (Section 25 subs. 1 of the Residence Act) or a settlement permit (Section 26 subs. 3 of the Residence Act) as a third-country national who is granted the right to asylum,
- a person who has been granted a refugee status within the meaning of Section 3 subs. 1 of the Asylum law or a subsidiary protection status¹⁶ within the meaning of Section 4 subs. 1 of the Asylum law or

- who, after being granted a residence permit as a beneficiary of subsidiary protection (Section 25 subs. 2 sentence 1 second alternative of the Residence Act), is granted a settlement permit within the meaning of Section 26 subs. 3 respectively 4 of the Residence Act.

In contrast, for the mentioned status groups the mentioned requirements are to be waived, if

- „1. the application for issuance of a residence title which is required in connection with the subsequent immigration of dependants is filed within three months of final recognition as a person entitled to asylum or final granting of refugee status or subsidiary protection status or a residence permit within the meaning of Section 23 subs. 4 [re-settlement-refugees; J. G.] and
2. it is not possible for a foreigner and his or her dependants to live together as a family unit in a state which is not a Member State of the European Union and to which the foreigner or his or her dependants have special ties“ (Section 29 subs. 2 sentence 2 no. 1 and 2 of the Residence Act).

The three-month-deadline stated in sentence 2, no. 1 shall also be deemed to be met on the third-country national filing the application on time at the foreigners office (Section 29 subs. 2 sentence 3 of the Residence Act).

Additionally, specific requirements may also be waived, if the sponsor in Germany was granted temporary protection in accordance with Section 24 subs. 1 of the Residence Act and if “1. the family unit in the country of origin has been broken up as a result of the foreigner having fled said country and 2. the dependant is admitted from another Member State of the European Union or is located outside of the European Union and is in need of protection“ (Section 29 subs. 4 no. 1 and 2 of the Residence Act).

3.2 Integration measures before and / or after admission

Since September 2007, spouses and registered partners of third-country nationals and Germans living in Germany need to prove that they are able to communicate in German at least on a basic level before they enter the country (Section 30 subs. 1 first sentence no. 2 of the Residence Act). This provision aims to prevent forced marriages and to make the spouse’s integration in German society easier. If the immigrants want to join nationals of certain countries (e.g., Australia, Japan, the United States) or family members who are permitted to reside in Germany on the

¹⁶ For temporary restriction on family reunification for some beneficiaries of subsidiary protection, see chapter 2.1.4.

grounds of certain residence titles (e.g., an EU long-term residence permit or an EU Blue Card), they are exempt from demonstrating German language skills.

3.2.1 When the language test takes place

As a rule, the family members must prove their basic knowledge of German at the German diplomatic mission abroad before they enter the country. They will usually not be issued with a visa until they have demonstrated their language skills (see below for exemptions and general waivers of the language requirements for certain groups of persons).

3.2.2 What knowledge and skills are required from applicants in order to pass the test

The spouse or registered partner must be able to communicate in German “at least on a basic level” (Section 30 subs. 1 sentence 1 no. 2 of the Residence Act in conjunction with Section 2 subs. 9 of the Residence Act). This is generally deemed to be the case if the applicant has obtained a language certificate by a recognised institution (e.g. Goethe-Institute) which certifies that he or she has German language skills at reference level A1 of the Common European Framework of Reference for Languages (CEFR)¹⁷. A1 denotes the beginners’ level and elementary knowledge of the language.¹⁸

3.2.3 Preparatory classes

Applicants will usually have to take the initiative and attend language courses with an approved institution in the country of origin or transit. The Goethe-Institute provides a list of potential examination centers around the world on its website.¹⁹ In order to obtain an A1 level language certificate from the Goethe-Institute, students will usually have to take 160 lessons of 45 minutes each, with the actual length of the course depending on their existing knowledge of German (Goethe Institut 2016). The diplomatic mission abroad may waive the requirement of formal evidence of the language skills if the

applicant obviously demonstrates his or her knowledge of German when filing the application at the visa department (Die deutschen Auslandsvertretungen in der Türkei: 2016: 2).

3.2.4 Fees for preparatory classes

The expense will depend on the country of origin, the course provider and the course format (e.g. extensive, intensive or super-intensive courses as offered by the Goethe-Institute, for example).

3.2.5 Exemptions made on e.g. hardship clauses

The age and language skills requirements are to be waived pursuant to Section 30 subs. 1 sentence 2 of the Residence Act, if the spouse or registered partner in Germany possesses

- a settlement permit for highly qualified third-country nationals,
- an EU Blue Card,
- a residence permit for research purposes or for the purpose of self-employment,
- the third-country national held a residence permit for research purposes (Section 20 of the Residence Act) immediately before a settlement permit or an EU long-term residence permit was issued, or
- a residence permit for persons who possess the status of long-term residents in other Member States of the European Union (Section 38a of the Residence Act) and the marriage or civil partnership already existed in the Member State of the European Union in which the third-country national has the status of a long-term resident.

The language skills requirements are to be waived pursuant to Section 30 subs. 1 sentence 3 no. 1 of the Residence Act, if the family reunification shall take place with a third-country national in Germany who is

- a resettlement refugee (Section 23 subs. 4 of the Residence Act),
- granted the right to asylum and who is holding a residence or settlement permit (Section 25 subs. 1 and Section 26 subs. 3 of the Residence Act),
- a recognised refugee holding a residence or settlement permit (Section 25 subs. 2 of the Residence Act and Section 26 subs. 3 of the Residence Act),
- a beneficiary of subsidiary protection holding a residence or settlement permit (Section 25 subs. 2 sentence 1 second alternative and Section 26 subs. 4 of the Residence Act)

17 Common European Framework of Reference for Languages: <http://www.europaeischer-referenzrahmen.de/> (31.10.2016).

18 Definition of Level A1 – Beginner pursuant to the Common European Framework of Reference for Languages: “Can understand and use familiar everyday expressions and very basic phrases aimed at the satisfaction of needs of a concrete type. Can introduce him/herself and others and can ask and answer questions about personal details such as where he/she lives, people he/she knows and things he/she has. Can interact in a simple way provided the other person talks slowly and clearly and is prepared to help” (GER 2016).

19 Internet site of the Goethe-Institute with further information on language courses and examination centers around the world: <http://www.goethe.de/lrn/prj/egn/ogf/deindex.htm> (31.10.2016).

and if the marriage or civil partnership already existed at the time when the third-country national established his or her main ordinary residence in the federal territory.

Furthermore, this holds true if

- „the spouse [or registered partner; J.G.] is unable to provide evidence of a basic knowledge of German on account of a physical, mental or psychological illness
- the spouse's [or registered partner's; J.G.] need for integration is discernibly minimal²⁰ within the meaning of a statutory instrument issued pursuant to Section 43 subs. 4 or the spouse [or registered partner's; J.G.] would, for other reasons, not be eligible for an integration course pursuant to Section 44 after entering the federal territory,
- by virtue of his or her nationality²¹, the third-country national may enter and stay in the federal territory without requiring a visa for a period of residence which does not constitute a short stay,
- the third-country national holds an EU Blue Card or
- due to particular circumstances on a case-by-case basis of the joining spouse [or registered partner; J.G.] it is not possible or not reasonable to make efforts attempting to learn basic German“ (Section 30 subs. 1 sentence 3 no. 2 – 6 of the Residence Act).

Ultimately, the language skills requirement may also be waived if the family reunification with a spouse or registered partner at once is a family reunification as a primary carer to a minor German child. In this case the statutory provisions for the family reunification with a child apply and no language skills need to be proved (Die deutschen Auslandsvertretungen in der Türkei: 2016: 2).

3.2.6 Decision of the Federal Administrative Court on language requirements (2012)

The Federal Administrative Court (BVerwG) determined in a landmark decision handed down on 4 September 2012 “that the legal requirement of a third-country national spouse or registered partner reunifying with a German citizen to prove he or she has a command of the German language can only apply to a limited extent in the framework of family reunification. Therewith, a visa must be issued to an immigrating spouse or registered partner if it is not possible or reasonable in individual cases for them to endeavour to learn the basics of the German language

²⁰ A discernibly minimal need for integration exists if the joining family member obtains a university degree and is expected to find a job also due to his or her language skills (BAMF 2015: 2).

²¹ Citizens of the following states may enter the federal territory without visa and may apply for a residence permit from within the federal territory: Andorra, Australia, Honduras, Israel, Japan, Canada, Republic of Korea, Monaco, New Zealand, San Marino and USA.

or if they have not succeeded in doing so within one year. These restrictions do not apply to spouses reunifying with third-country nationals in Germany, though in order to avoid a disproportionate burden on the spouses or registered partners a residence title may be granted for the reason of language acquisition (BVerwG 10 C 12.12, decision handed down on 4 September 2012)” (BAMF/EMN 2013: 24 et seq.).

3.2.7 Negative consequences for family members not complying with the integration measures

If the applicant cannot prove his or her knowledge of German, the visa application may be rejected or its processing will be delayed until the applicant provides the necessary evidence. If, due to certain circumstances (see above), it is impossible to provide the required evidence of language skills, this requirement may be waived (Section 30 subs. 1 third sentence no. 6 of the Residence Act).

3.2.8 Civic integration exams before entering the federal territory

The regular procedure does not foresee attendance of an integration or orientation course before entering Germany. After entering the country, migrants may be entitled or obliged to attend an integration course (see Chapter 5.1).

3.2.9 Waiting period before a sponsor's family member can reunite with him/ her

On 17 March 2016, a transitional period entered into force for beneficiaries of subsidiary protection. During this period, they may not bring their family to Germany, except in cases of special hardship (see Chapter 2.1.4). This transitional period will end on 16 March 2018.

3.3 Rejection of an application on grounds of public policy, public security or public health

Generally speaking, the issuance of a residence title requires that there are no grounds for expulsion (Section 5 subs. 1 no. 2 of the Residence Act). This means that a residence title may be refused if there are grounds for expulsion. Pursuant to Section 54 of the Residence Act, this is the case if the third-country national

1. has been non-appealably sentenced to at least two years' youth custody or prison for one or more intentionally committed offences or if an incapacitation order has been given for the last non-appealable sentence,

- 1a. has been non-appealably sentenced to at least one year's youth custody or prison for one or more intentionally committed offences against the life or limb or the sexual self-determination of a person, against property or for resistance against enforcement officers, provided that the offence was conducted through the use of force, through threats of danger to life or limb or through deception; in case of serial offences against property the grounds for expulsion are serious even if the offender has not used force, threats or deception;
 2. endangers the free democratic basic order or the security of the Federal Republic of Germany; this is deemed to be the case if certain facts point to the conclusion that the foreigner belongs or belonged to an association which supports terrorism, that the foreigner supports or has supported such an organisation or that the foreigner prepares or has prepared one of the serious violent offences endangering the state listed in Section 89a subs. 1 of the German Criminal Code pursuant to Section 89a subs. 2 of the German Criminal code, unless the foreigner visibly and credibly distances him- or herself from such actions,
 3. belonged to the leadership of an organisation subject to a non-appealable ban because its purpose or activities are in breach of the criminal laws or because it undermines the constitutional order or the concepts of international understanding,
 4. participates in violence in the pursuit of political or religious goals, publicly incites to or threatens violence, or
 5. incites hatred against certain groups of the population; this is deemed to be the case if he or she specifically and regularly influences other persons in order to generate or strengthen hatred of members of certain ethnic groups or religious communities or if he or she, publicly or during a meeting or by distributing writings in a way which may disrupt public safety and law and order,
 - a) incites arbitrary measures against segments of the population,
 - b) maliciously maligns of certain segments of the population and thus attacks their human dignity or
 - c) approves of or incites to crimes against peace or against humanity, war crimes or terrorist acts of similar importance,
 unless the foreigner visibly and credibly distances him- or herself from his or her actions.
- (2) The grounds for expulsion within the meaning of Section 53 subs. 1 are serious if the foreigner
1. has been non-appealably sentenced to at least one year's prison term for one or more intentionally committed offences,
 - 1a. has been non-appealably sentenced to youth custody or a prison term for one or more intentionally committed offences against the life or limb or the sexual self-determination of a person, against property or for resistance against enforcement officers, provided that the offence was conducted through the use of force, through threats of danger to life or limb or through deception; in case of serial offences against property the grounds for expulsion are particularly serious even if the offender has not used force, threats or deception;
 2. has been non-appealably sentenced to at least one year's youth custody and the sentence has not been suspended on probation,
 3. has, as offender or secondary participant, fulfilled the offence of in Section 29 subs. 1, first sentence, no. 1 of the Narcotics Act or tried to do so,
 4. uses heroine, cocaine or a comparably dangerous narcotic and is not willing to undergo or evades rehabilitation treatment,
 5. keeps another person in a reprehensible way, in particular by the use or threat of force, from participating in economic, cultural or social life in the Federal Republic of Germany,
 6. coerces or tries to coerce another person into marriage,
 7. in the course of an interview which serves to clarify reservations regarding entry or continued residence, fails to reveal to the German diplomatic mission abroad or to the foreigners authority previous stays in Germany or other states or furnishes false or incomplete information on key points regarding links with persons or organisations suspected of supporting terrorism; expulsion on this basis shall only be permissible if the foreigner is expressly informed prior to the interview of the security-related purpose of the interview and the legal consequences of furnishing false or incomplete information
 8. during an administrative procedure conducted by the authorities of a Schengen State, in Germany or abroad
 - a) has furnished false or incomplete information in order to obtain a German residence title, a Schengen visa, an airport transit visa, a passport substitute, an exemption from the passport obligation or the suspension of deportation or
 - b) despite an existing legal obligation to this effect, has not cooperated in measures taken by the authorities responsible for the enforcement of this law or of the

Convention Implementing the Schengen Agreement, provided that the foreigner was informed before of the legal consequences of such actions, or

9. has violated legal provisions or court or administrative decisions in a serious way or taken actions outside the federal territory which are tantamount to an intentionally committed offence in the federal territory” (Section 54 of the Residence Act).

3.4 More favourable family reunification rules for refugees

The Family Reunification Directive of 2003 sets out that the beneficiaries of international protection shall benefit from easier requirements for family reunification. Paragraph 8 of the Recitals says (Directive 2003/86/EC):

“Special attention should be paid to the situation of refugees on account of the reasons which obliged them to flee their country and prevent them from leading a normal family life there. More favourable conditions should therefore be laid down for the exercise of their right to family reunification” (paragraph 8 of the Recitals to Directive 2003/86/EC)

As described in Chapters 3.1.4 and 3.2.5, the requirements concerning a secure livelihood or adequate living space and the language requirement may be waived if the family members join resettlement refugees, third-country nationals who are granted the right to asylum who hold a residence or settlement permit, recognised refugees who hold a residence or settlement permit or beneficiaries subsidiary protection (Section 30 subs. 1 third sentence no. 1 of the Residence Act). In particular, this applies during the three months after the recognition of the protection status.

Grace period of three months before the requirements for exercising the right to family reunification apply

The requirements of a secure livelihood (Section 5 subs. 1 no. 1 of the Residence Act) and to provide sufficient living space (Section 29 subs. 1 no. 2 of the Residence Act) may be waived if the application for a residence permit required for the family reunification procedure is filed within three months after the applicant’s final recognition as asylum seeker, as refugee or as a beneficiary of subsidiary protection or after the granting of a residence permit for resettlement refugees and if it is not possible for the third-country national and his or her family to live together as a family unit in a state which is not a member state of the

European Union and to which the third-country national or his family have special ties (Section 29 subs. 2 second and third sentence of the Residence Act).

Restriction to relationships established before entry into the (Member) State

If the marriage or civil partnership already existed when the third-country national established his or her ordinary residence in the federal territory, the requirement that the spouse or registered partner prove his or her language skills before being issued with a visa for Germany may be waived, provided that other conditions are met (Section 30 subs. 1 third sentence no. 1 of the Residence Act).

Wider definition of family members (going beyond parents) when it comes to UAMs

As a rule, the definition of the term “core family” shall not be extended for unaccompanied minor refugees. Nevertheless, in cases of special hardship other family members than the parents may be allowed to enter Germany pursuant to Section 36 subs. 2 of the Residence Act.

Similar rules for the family reunification of BSPs as of refugees

In principle, the family reunification provisions are the same for third-country nationals who are granted the right to asylum, recognised refugees and beneficiaries of subsidiary protection (Section 29 subs. 2, Section 30 subs. 1 first sentence no. 3 lit. c, Section 32 subs. 2 and Section 36 subs. 1 of the Residence Act). However, the Act on the Introduction of Accelerated Asylum Procedures, which entered into force on 17 March 2016, introduced a transitional period for family reunification with beneficiaries of subsidiary protection. Family reunification will be suspended until 16 March 2018 for all those who were granted a residence permit for subsidiary protection purposes after 17 March 2016. After that date, the right of family reunification will automatically be reinstated (Section 104 subs. 13 of the Residence Act; see Chapter 2.1.4 for exemptions).

3.5 Differences in the requirements to be met for exercising the right to family reunification to third country nationals and Germans

The provisions for family reunification of third-country nationals with German nationals are largely similar to those for joining other third-country nationals. However, some conditions are easier to fulfill. For example, the residence permit shall be granted to a minor unmarried child

of a German or to a parent of a minor unmarried German for the purpose of care and custody regardless of whether their subsistence is secure (Section 28 subs. 1 second sentence of the Residence Act). A residence permit should be granted as a general rule to spouses or registered partners, independent of whether their subsistence is secure (Section 28 subs. 1, third sentence of the Residence Act). In addition, the waiting period for a permanent settlement permit is shorter; if third country nationals join Germans, a permanent settlement permit is usually granted after three years of holding a residence permit, provided that the family unit continues to exist (Section 28 subs. 2 of the Residence Act). Moreover, the naturalisation requirements are easier for foreign spouses or registered partners of Germans (Section 9 of the Residence Act). Otherwise, the age limits for spouses and registered partners (usually at least 18 years) and the requirements concerning German language skills (Section 30 subs. 1 first sentence 1 nos. 1 and 2 of the Residence Act) are mostly the same. Concerning the latter, the requirements are more generous, however:

“According to the decision by the Federal Administrative Court of 4 September 2012, spouses joining their German spouses in Germany must be granted a visa for family reunification purposes even if, depending on the individual case, it is impossible or not acceptable for them to achieve a basic knowledge of the language or if their efforts are not successful within a year. The Court argues that, as a rule, a German national cannot be required to live his marriage abroad. However, this does not mean that the spouse is not required to obtain a basic knowledge of German after entering the country (Berlit 2013)” (Büttner/Stichs 2014: 26).

4 Submission and examination of the application for family reunification

This Chapter will focus on the actual application procedure and on the examination of the requirements for family reunification. While we will try to take into account different requirements for different groups of applicants, we cannot guarantee the completeness of the description.

4.1 Procedure(s) that apply to the sponsor or his/ her family members when an application for entry and residence for the purpose of family reunification is submitted

4.1.1 Formal party to an application for family reunification

The family member or the spouse or registered partner who want to join their family in Germany file a visa application for the purpose of family reunification with the German diplomatic mission abroad.

The sponsor in Germany may file a corresponding application with the foreigners authority, for example in order to comply with the three-month period after the recognition as asylum seeker, as refugee or as beneficiary of subsidiary protection or the granting of a residence permit as a resettlement refugee (Section 29 subs. 2, third sentence of the Residence Act). Apart from that, the foreigners authority at the sponsor's place of residence shall check whether the requirements concerning the available living space, the secure subsistence and the healthcare insurance are met.

In the case of Syrian beneficiaries of protection the German foreigners authorities may grant a preliminary approval of the application and send this to the responsible diplomatic mission abroad. This results in less work for the latter and reduces the processing period.

4.1.2 Where can the application be submitted

Visas for the purpose of family reunification are usually issued by the diplomatic mission (embassy or honorary consulate) of the Federal Republic of Germany to the country in which the applicant ordinarily resides (e.g. lawful residence for at least six months). However, the application may also be issued in another country. For example, since the German embassy had to close in Damascus for general public traffic, Syrians need to apply for family reunification in one of the embassies in Lebanon, Jordan or Turkey.

4.1.3 Documentary evidence required from the applicant to confirm his/ her identity and the family relationship

In order to apply for a visa for the purpose of family reunification the applicant has to provide proof of his/her identity, the marriage, the civil partnership or the family relationship and present it to the German diplomatic mission abroad. The following requirements of the embassy at Cairo and the German diplomatic missions to Turkey list the relevant documents:

Residence permit for family reunion (duration of stay longer than 3 months)

“Documents required

1) General requirements

- Passport (valid for at least 3 months beyond the length of stay applied for), latest still existing old passport and copies of both passports
- 2 completed and signed application forms (“Application form for a residence permit”, available at the visa department or online at www.kairo.diplo.de)
- 2 completed and signed notification/explanation forms in German or English (available at the visa department or online at www.kairo.diplo.de)
- 3 recent biometric passport photographs

2) Proof concerning the purpose of travel

- A marriage certificate attested by the Egyptian foreign office, translated into German and legalised by the embassy [...]
- Recent extract from the Egyptian family register [...]
- Proof of German language skills at the level A1 of the Common European Framework of Reference for Languages by an ALTE certified provider of examinations which has a branch staffed by transferees in Egypt. [...]
- For the purpose of family reunification with a German spouse: a copy of the German spouse’s passport (all pages which are not empty) and identity card [...]
- For the purpose of family reunification with a non-German spouse: proof of legal residence and passport of the spouse living in Germany, including a notice of the residence status in the passport [...]
- For the purpose of family reunification with a German child: birth certificate of the child, proof of the child’s nationality and, if necessary, proof of the right of care and custody [...]
- For the purpose of family reunification with parents: Birth certificates of the children attested by the Egyptian foreign office, translated into German and legalised by the embassy [...]

General notice concerning the required documents: all documents must be produced in German or English or together with a translation into German provided by a translator recognised by the embassy. All Egyptian official documents must be provided in a translated, attested and legalised version” (Deutsche Botschaft Kairo 2016a).

Visa for joining a beneficiary of international protection as a spouse

Some of the documents listed above are not necessary (e.g. proof of language skills). In return, several additional documents are necessary:

- Foreign marriage contract/proof of religious marriage and marriage certificate as proof of the marriage’s being registered in the civil register [...]
- If one of the spouses was represented at the marriage: a special power of attorney, which gives the full names of both spouses and which was issued before the signing of the marriage contract.
- Birth certificates of the children [...] (Deutsche Botschaft Kairo 2016b: 1).

The German diplomatic missions to Turkey explain in their leaflets under which preconditions spouses can join their spouses if at least one of the partners is still a legal minor. In this case, the following documents are required:

“International marriage certificate (“Formül B”), including all data for both spouses

- In case of a marriage at the age of 17: written approval of the parents, including translation into German
- In case of a marriage at the age of 16: court decision which approves the marriage, including translation into German

Excerpt from the register of civil status for the spouse joining the sponsor (“Tam Tekmil Vukuatlı Nüfus Kayıt Örneği”). Fully completed official remarks column (“Düşünceler”) with all relevant information on the civil status (e.g. former marriages, divorces, children, parents, events affecting the nationality).

Complete divorce decisions concerning any preceding marriage of either of the spouses, including a statement on their legal validity and on their recognition by German law, including translations into German/death certificates (if applicable)” (German diplomatic missions to Turkey 2016: 1).

Source: Die deutschen Auslandsvertretungen in der Türkei 2016:1

4.1.4 Investigating the absence of (reliable) documentation

If the applicant and their family members, spouses or registered partners cannot provide certain documents to prove that the family relationship, marriage or civil partnership indeed exists, they can provide other evidence to the German diplomatic mission abroad. For example, they can provide witnesses, ask a trusted lawyer of the diplomatic mission to undertake local research or undergo genealogical tests:

“The applicant is obliged to put forward any circumstances in his or her favour, in particular those which justify the application, and to produce the necessary evidence (see Section 82 of the Residence Act). If he or she is not willing to cooperate, the visa application shall, as a rule, be rejected. The applicant shall be notified of this legal consequence beforehand. If there are reasonable doubts about the applicant’s being related to the sponsor and if these doubts cannot be resolved in any other way – in particular by producing documentary evidence – it may be useful to conduct a genealogical test at the expense of the applicant who is obliged to produce the necessary evidence. This is particularly useful for decisions on family reunification applications from countries with unreliable documentation, where it may be difficult, take an unreasonable amount of time or be completely impossible to provide the necessary documentary evidence. Since genealogical tests are voluntary and each case must be considered individually, a genealogical test may not be generally regarded as the only possible or reliable method of evidence for a certain country of origin. In practice, buccal swap tests have turned out to be a

reliable and cheap genealogical testing method. The genealogical testing is usually conducted as follows:

The applicant asks a German institution of his or her choice to conduct a genealogical test and usually makes an advance payment towards the cost. The institution sends a “test kit” to the local diplomatic mission. Once the kit has arrived, the person to be tested is asked to come to the diplomatic mission. The buccal swap is taken by the diplomatic mission’s medical officer and sent by courier to the institution. If no medical officer is available, the diplomatic mission shall find another way to ensure that it is really the applicant who is tested. The applicant shall pay all expenses for the medical officer and the courier service right on the spot. At the same time, a buccal swap is taken from the reference person in Germany, either directly by the medical institution or by the local public health authority. Once the buccal swaps have been taken, the results of the genealogical tests are usually available within two to four weeks. According to the Commission on Genetic Testing, paternity tests are only in line with the guidelines and cannot be challenged on formal grounds if the child’s mother was included in the tests. There must be compelling reasons for not including the mother, as, otherwise, the reliability of the report may be compromised” (Auswärtiges Amt 2016: 2 et seq.).

4.2 Other procedures

4.2.1 Verification that any extended family members have fulfilled the requirements

During the visa procedure, applicants shall provide evidence of their identity, of the family relationship and of the marriage or registered partnership (see Chapters 4.1.3 and 4.1.4).

4.2.2 Verification that other requirements have been fulfilled

The foreigners authority at the place of residence of the sponsor must agree to the issuance of a visa to the family members and examine whether the conditions for family reunification are met. These include sufficient space of living, secure subsistence and healthcare insurance.

Size of the accommodation

The foreigners authority can choose between different options to check whether sufficient living space is available. The following list of documents (which is taken from a German district) gives an overview of the different options:

- “Evidence of sufficient living space for all current and future members of the household can be provided by a tenancy or purchase agreement which specifies the floor space of the apartment
- Evidence by providing the monthly expenses for the apartment
 - For rented apartments: monthly rent including expenses for heating (recent confirmation by the landlord or account statement)
 - For owned apartments: monthly expenses (interest and redemption payments for loans and monthly maintenance fees)” (Rhein-Erft-Kreis 2016).

Conditions under which sponsors have access to healthcare insurance

“Sufficient healthcare insurance coverage shall be deemed to exist if the foreigner is enrolled in a statutory health fund. In this case, no further examination is necessary” (2.3.5.1. General Administrative Regulation to the Residence Act). As a rule, family members are covered by the statutory healthcare insurance of the sponsor in Germany (family insurance). Children are usually covered by the healthcare insurance of their parents

The reference period over which this requirement is considered

“The family’s subsistence must be secure in the long run. The foreigners authority will therefore have to gauge whether the foreigner’s subsistence is secure during the time of the intended stay. [...] If the foreigner has signed a temporary employment contract, the circumstances of the individual case must be taken into account, including the fact whether – as it is the rule in certain economic sectors – it is likely that the foreigner will sign new employment contracts with the same or with another employer or whether there is a risk of unemployment once the contract runs out” (2.3.3 General Administrative Regulation to the Residence Act).

In general, subsistence should be secured by the third-country national him- or herself. In exceptional cases, a third person may guarantee the subsistence; however, this third person will have to meet strict requirements concerning his or her ability to do so. “If the foreigner aims to stay permanently in Germany for the purpose of family reunification, the sponsor must be able to secure his or her subsistence in the long run” (2.3.4.2 General Administrative Regulation to the Residence Act).

How is any past/ future income of the sponsor evaluated in practice

The foreigners authority shall determine and calculate individually whether subsistence is indeed secure pursuant to Section 2 subs. 3 of the Residence Act. The foreigners authority shall extrapolate the current evidence of the sponsor’s income and take into account the length, volume etc. of the employment contract. Even if the foreign sponsor does not touch basic or social security benefits at the time of the examination, the authority shall examine whether he or she is or would be entitled to such benefits once the family member joined him or her. Rent and additional expenses, healthcare insurance contributions and other income (Section 11 subs. 2 of the German Social Code, Book II) shall be taken into account as well. “In case of doubt, the local benefit authority (employment agency, social welfare office) should be asked to provide a calculation. If, according to this fictitious calculation, the sponsor is entitled to social security benefits, the subsistence is not secure” (2.3.4 General Administrative Regulation to the Residence Act).

The amount of the minimum income requirement in the relevant currency and year

When family members join a gainfully employed third-country national in Germany, the individual needs of the

sponsor and the needs of the family members joining him or her will be calculated. This calculation of the needs of the persons living as a unit will be based on the regular benefits as set out in the Second Book of the German Social Code (SGB II in conjunction with SGB XII): The joint household includes spouses and registered partners, adult children up to the age of 25 unless these are already gainfully employed and minor children.

Section 20 of the Second Book of the Social Code sets out the regular needs for secure subsistence:

“The regular benefits for secure subsistence shall cover in particular food, clothes, hygiene products, furniture, energy supply excluding heating and hot water and everyday personal needs. Everyday personal needs include adequate participation in social and cultural life. The regular benefit shall be paid out as a monthly flat-rate sum” (Section 20 subs. 1 first and second sentences of the Second Book of the Social Code).

The different categories of regular benefits are set out in the Twelfth Book of the Social Code. Pursuant to Section 2 of the Regulation on Determining the Extrapolation of the Regular Benefits Categories²² the regular benefits categories for 2016 are as follows (see table 3):

²² Regulation on determining the percentage for the extrapolation of the regular needs categories pursuant to Section 28a of the Twelfth Book of the German Social Code and on supplementing the appendix to Section 28 of the Twelfth Book of the German Social Code for 2016 (RBSFV 2016)

Consequences of non-compliance for the right to family reunification

If none of the exceptions or exemptions explained above applies, non-compliance with individual requirements will regularly lead to a rejection or delayed processing of the family member’s visa application until the necessary conditions are met.

At what stage(s) of the examination procedure are the above requirements verified

Compliance with the requirements will be examined during the visa procedure. A re-examination will take place at every extension of the residence title, subject to the same provisions as for the issuance of the residence title (Section 8 subs. 1 of the Residence Act). Moreover, additional examinations can take place as necessary.

4.2.3 Procedure in place to ensure integration measures have been complied with

Applicants can usually prove their language skills by producing a language certificate issued by an approved language course provider to the diplomatic mission to the country of origin or transit of the family member.

Successful attendants of an integration course will receive a certificate as well. This certificate can be used as proof of attendance for the foreigners authority when applying for an extension of the residence title (see Chapters 5.3 and 5.5).

Table 3: Regular benefits categories pursuant to Section 28 of the Twelfth Book of the German Social Code in euro (since 1 January 2016)

Regular benefits pursuant to the Twelfth Book of the German Social Code, from 1 January 2016	Amount in €
Regular benefits category 1: One adult who is entitled to benefits and has his or her own household as a single adult or single parent	404
Regular benefits category 2: For each of two adults who are entitled to benefits and have a joint household as spouses or registered partners or live together in a marriage-like partnership	364
Regular benefits category 3: One adult who is entitled to benefits and has neither his or her own household nor lives together with a spouse, a registered partner or in a similar partnership in a joint household	324
Regular benefits category 4: One youth who is entitled to benefits and aged between 14 and 18	306
Regular benefits category 5: One child who is entitled to benefits and aged between 6 and 14	270
Regular benefits category 6: One child who is entitled to benefits and aged up to 6	237

Source: Section 2 supplement to the Appendix to Section 28 of the Twelfth Book of the Social Code

4.2.4 Guarantees that individual circumstances are taken into account, if the above conditions are not (completely) fulfilled

Residence titles may be granted by way of derogation of certain requirements in order to prevent particular hardships (see, for example, Section 30 subs. 2 and 3 of the Residence Act).

4.2.5 Verification of whether or not the family member(s) constitute a threat to public policy, public security or public health

The following measures can be taken to verify whether an applicant may be a risk to public safety and law and order and whether a visa should be refused. During the visa procedure the diplomatic mission abroad sends the data of the applicants to the Federal Office of Administration (BVA). The Office can then follow the procedure of Section 73 subs. 1 of the Residence Act and send these data on to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counterintelligence Service, the Federal Criminal Police Office, the German Customs Investigation Bureau in order to determine grounds for refusing a residence title pursuant to Section 5 subs. 4 of the Residence Act or examine other grounds for concern, or it can use an automated procedure to compare them with the data stored in the anti-terrorism database established in 2011 (Section 1 subs. 1 of the Act on the Anti-Terrorism Database) pursuant to Section 72a of the Residence Act. The latter procedure is initiated if there are grounds to assume that the applicant is a member of a terrorist association, a group which supports such an association or a group which unlawfully uses force to assert international political or religious issues or supports, prepares or consciously incites to the use of such force, particularly by verbally promoting the use of such force (Section 72a subs. 2 of the Residence Act). In case of a database hit the Federal Office of Administration will notify the relevant security authorities, which, in turn, notify the responsible diplomatic mission via the Federal Office of Administration if there are grounds to refuse a residence title (Section 72a subs. 3 of the Residence Act).

4.2.6 Definition of the term ‘minor child’ and best interests of the child

Subsequent immigration of children

Children who want to join their parents in Germany must not yet be 18 years of age and neither married nor divorced or widowed (Section 80 subs. 3 first sentence of the Residence Act). Any other thresholds for coming of age in the countries of origin do not play a role (32.0.1 General Administrative Regulation to the Residence Act). The

age at the time of the application, not the age at the time of the decision is what is important. However, the waiting period for filing the application may be several months and, in certain crisis regions and at certain diplomatic missions, up to one and a half years due to the high number of applications.

Minor, unmarried children of third-country nationals shall be granted a residence permit if the parents or the parent possessing the sole right of care and custody hold a residence permit, an EU Blue Card, a settlement permit or an EU long-term residence permit. The period for which the residence permit is granted may not exceed that of the parents or the parent whom the child joins (32.0.2.1 General Administrative Regulation to the Residence Act).

4.2.7 Assessment for family reunification where children are concerned

Similar to the procedure set out in Section 82 of the Residence Act, an age determination report can be used to verify family relationships with children. The visa handbook of the Federal Foreign Office says:

“The decision on whether to issue a visa for a child may depend on the age of the applicant. If there are well-founded doubts about the correctness of the information provided in the visa application and if the produced or required documents do not contain convincing evidence of the real age, an age determination report may be necessary. The applicant is obliged to put forward any circumstances in his or her favour, in particular those which justify the application, and to produce the necessary evidence (see Section 82 of the Residence Act). If he or she refuses to cooperate, the visa application shall be rejected as a rule, as the applicant has not furnished the required evidence that he or she complies with the requirements for family reunification. The applicant shall be notified of this legal consequence beforehand. A medical officer for the embassy may be asked to prepare an age determination report. The applicant shall pay an advance towards the expenses of this report. If the diplomatic mission has no medical officer at its disposal, the applicant will need to ask a specialist resident in Germany to provide the age determination report. As a rule, an advance payment shall be made. Once the advance payment has been received, the specialist shall contact the responsible diplomatic missions and notify it of the X-ray photographs which necessary to prepare the age determination report. Once this notification has been received, local specialists may conduct the X-ray examination. The diplomatic mission shall make sure (e.g. by accompanying the applicant) that it is really the applicant whose pictures are taken. Afterwards, the

pictures shall be transmitted to the responsible institution in Germany” (Auswärtiges Amt 2016a: 4).

4.3 Duration of the procedure deciding on an application for family reunification

There is no legal provision concerning the timeframe of the procedure. The Federal Foreign Office has pointed out that it may easily take several months to process an application for a visa which entitles its holder to a longer-term stay or to gainful employment (Auswärtiges Amt 2016b). On top of the time needed for the processing of the application, there may be considerable waiting periods for filing the application in some regions and at some German diplomatic missions. This will affect the total length of the procedure.

4.3.1 Average duration of the procedure in practice

It is impossible to determine the average length of the procedure at German diplomatic missions around the world, as it varies considerably depending on the region, the season and the number of applications. This applies in particular to diplomatic missions to countries near crisis regions, from where a significant number of refugees and migrants have come to Germany who want their family to join them. The answer of the federal government to a minor interpellation in the Bundestag in October 2016 concerning the length of waiting periods at diplomatic missions to the neighbouring countries of Syria gives a good overview of the situation:

“As of 19 September 2016, the three diplomatic missions to Turkey have made 38,514 appointments (each appointment for one person) with applicants for family reunification with Syrian beneficiaries of international protection. It is impossible to provide a breakdown of this total by the individual diplomatic missions to Turkey. So far, 4,116 appointments have been confirmed. Taking into account the sheer number of appointments granted, the expected waiting period is between 7 and 9 months.

The General Consulate at Erbil does not differentiate between the nationality of the sponsor in Germany when granting appointments. It is therefore impossible to tell how many appointments were granted to family members of Syrian beneficiaries of international protection. While the theoretical waiting period is currently two years, efforts are being made to reduce it. Usually, more than half of the appointments at the diplomatic missions to Turkey and to Erbil fail. As a countermeasure, the staff routinely overbook the slots. As of 30 September 2016, about 7,700 appointments

have been made at the embassy to Beirut until October 2017. At Beirut, the appointment is for the whole core family. The theoretical waiting period is currently about 15 months. As the embassy to Beirut will be able to make more appointments from autumn, appointment dates have been reshuffled (i.e. earlier appointments have been offered). This will ultimately reduce the waiting time for all applicants.” (Deutscher Bundestag 2016a: 8).

4.3.2 Specific measures taken to shorten processing times

Since the beginning of 2015, numerous steps to make the procedure easier have been taken. Staff numbers and space at the German diplomatic missions abroad were increased – particularly in the neighbouring countries of Syria – in order to deal with the significant rise in the number of applications for family reunification with Syrian family members in Germany. Nevertheless, the acceptance of applications is sometimes delayed massively, which is why the waiting period for filing the application temporarily amounted to up to two years in some countries or at some diplomatic missions (Deutscher Bundestag 2016b: 3). Numerous measures have already been taken to reduce the waiting and processing times (for a detailed, chronological list see Deutscher Bundestag 2016b: 20 et seq.). However, the number of potential and actual applicants for family reunification has risen in the last few years, largely due to the jump in the number of beneficiaries of protection, which is why waiting times for filing an application are still long at numerous diplomatic missions.

More space at the German diplomatic missions abroad

The premises of several German diplomatic missions to the neighbouring countries of Syria have been and are still being expanded in order to process a larger number of visa applications. For example, a second visa department was opened at the General Consulate to Istanbul, where only Syrian applications are being processed. The premises of the General Consulates to Erbil, Ankara and Beirut have been expanded as well, so that more staff can process visa applications for the purpose of family reunification in particular (Deutscher Bundestag 2016b: 16).

Shift of individual steps during the visa procedure to Germany

Since February 2016, the embassy to Beirut has sent applications for extended family reunifications to Germany for processing in the framework of a pilot project. In July 2016, a new position was created at the Federal Foreign Office for processing these applications (Deutscher

Bundestag 2016b: 19). More than 100 visa applications have been processed during the pilot project. “The decisions concerned family reunification applications filed by other family members of Syrian refugees, who may be granted a residence permit in order to prevent special hardship. Such cases require a complex, time-consuming examination of the individual circumstances. Processing such cases at the head office has made work at the embassy considerably easier. There are plans to extend the pilot project to the processing of family reunification applications filed at other locations, and the necessary IT set-up is currently being established” (Deutscher Bundestag 2016a: 10).

Application processing by the local foreigners offices in Germany

In 2015 the Federal Foreign Office launched a simplified application form for family reunifications with Syrians living in Germany who were granted a protection status. At the same time, the local foreigners’ offices in Germany were involved more closely in the processing of the applications:

„The Federal Foreign Office and the German missions abroad in the region around Syria are trying to speed up and simplify the process for Syrian family members to reunite with recognised refugees in Germany. Family reunion with a recognized refugee in Germany is possible for 3 months after recognized refugee status is granted; during this period of time there is no need to provide of financial means or of German language skills on the part of the subsequently immigration spouse (Section 29 subs. 2 of the Residence Act).

In view of the huge demand and the many family members waiting to join the recognised refugee in Germany, the aim is to make the process for applying for family reunion visas at the German missions abroad quick and uncomplicated. That is what this simplified application form is for. It asks for all the details which are absolutely necessary for family reunion with a recognised refugee from Syria. The form can also be used – within the set deadline – to transmit informal and incomplete applications which will be further processed once the complete documentation has been received.

As a rule, the application must be submitted to a German mission abroad by the family members joining the recognised refugee. However, it may also be submitted by the recognised refugee living in Germany to a foreigner’s authority in Germany. In such cases, the Federal Foreign Office requests that the foreigner’s registration authorities in Germany take up the recog-

nised refugee’s case, officially confirm the recognised refugee’s status under the Residence Act – AufenthG – (on this form will suffice) and, if possible, grant provisional approval for family reunion. The responsible German mission abroad will then examine the family relationships and identities of the family members applying to join the recognised refugee in Germany and carry out the necessary security checks. If provisional approval has already been granted, the entire procedure can be speeded up considerably, as there is then no need to involve the foreigner’s registration authority in Germany again“ (Auswärtiges Amt 2015: 2).

Other measures to accelerate the procedure

Since spring 2015, several other measures have been taken in order to reduce the waiting periods, in particular for Syrians who apply for family reunification. For example,

- the diplomatic missions were provided with a significantly shorter visa application form in Arab, German and English,
- qualified evidence was accepted to prove family relationships and Syrian documents may be legalised by the diplomatic missions to Turkey,
- the federal states issued a global approval for reunification applications of spouses, registered partners and minor children of Syrian beneficiaries of international protection in Germany, provided that the sponsors had filed the family reunification application within three months after the final recognition of their protection status (Section 29 subs. 2 second sentence of the Residence Act),
- a new internet portal²³ was launched which enables applicants to fill in notifications and application forms online and print them in order to meet deadlines,
- the costs for the legalisation of Syrian documents and the issuance of a travel document for third-country nationals were waived for family reunification with Syrian beneficiaries of international protection,
- an agreement was signed with the International Organisation for Migration (IOM) to establish and operate advisory offices in family support centers at Istanbul, Gaziantep and Beirut, where the IOM helps applicants during the visa procedure and offers cultural preparation courses (Deutscher Bundestag 2016b: 20 et seq.).

23 Web portal: <http://fap.diplo.de> (24.11.2016).

5 Access to rights and support measures following family reunification

The Recitals of the Family Reunification Directive (Directive 2003/86/EC) state:

“The integration of family members should be promoted. For that purpose, they should be granted a status independent of that of the sponsor, in particular in cases of breakup of marriages and partnerships, and access to education, employment and vocational training on the same terms as the person with whom they are reunited, under the relevant conditions” (Recitals par. 15, Directive 2003/86/EC).

This Chapter will therefore deal with the support and inclusion measures to which spouses, registered partners and family members are entitled in Germany.

5.1 Civic integration courses

Sections 43 – 45 of the Residence Act and the Integration Course Ordinance (IntV), which was last modified by the entry into force of large parts of the Integration Act on 6 August 2016, provide the national legal basis for integration measures. The main element is the integration course, which consists of 600 language lessons and 100 orientation lessons (Sections 11 and 12 of the Integration Course Ordinance). In addition, there are specialised integration courses for illiterate people, women/parents, young people and young adults, who are no longer subject to compulsory education. These courses for specific target groups consist of 900 language lessons and 100 orientation lessons (Section 13 subs. 1 of the Integration Course Ordinance). There are also intensive courses of 430 lessons (400 language and 30 orientation lessons) (Section 13 subs. 3 of the Integration Course Ordinance).

5.1.1 Eligibility to participate for reunified family members

Third-country nationals who permanently reside in the federal territory and have been issued with a residence

title for family reunification reasons²⁴ are entitled to attend an integration course (Section 44 subs. 1 first sentence no. 1 lit. b of the Residence Act). Children, adolescents and young adults who take up school education or continue their previous school education in Germany are not entitled to attend. Third-country nationals are not entitled to attend either if “the need for integration is discernibly minimal” or if they already possess “a sufficient command of the German language” (Section 44 subs. 3 first sentence of the Residence Act). However, in the latter case they are still entitled to attend the orientation course (Section 44 subs. 3 second sentence of the Residence Act).

5.1.2 Obligation to participate

Third-country nationals who enter Germany for family reunification purposes are obliged to attend an integration course if they are unable to communicate at least at a basic level in the German language, if they do not possess a sufficient command of the German language at the time of issuance of a residence title, if they receive benefits in accordance with Book Two of the Social Code and an integration agreement pursuant to Book Two of the Social Code provides for attendance of an integration course or if they have special integration needs and the foreigners authority requires them to participate in an integration course (Section 44a subs. 1 of the Residence Act).

5.2 Access to rights for family members

5.2.1 Access to education

Children and adolescents who have entered Germany for family reunification purposes are subject to compulsory school education up to the age of 18 or for nine to ten years of general schooling and subsequent vocational training. School education is organised differently in each federal state and will also depend on the individual school. In some cases the children and adolescents will take part in the regular lessons in all subjects from day one (with or

²⁴ A residence permit pursuant to Sections 28, 29, 30, 32 or 36 of the Residence Act.

without additional language lessons), in others they may learn in special classes for some time or permanently. This may apply to all or only to some subjects; the pupils may attend regular lessons in other subjects (Massumi/von Dewitz et al. 2015: 7).

With regard to higher education, children and adolescents who have joined their family in Germany are deemed to be foreign students with regard to their school or university education in the country of origin or a third country. They will therefore have to pass a test to ascertain their academic knowledge, unless their school leaving certificates directly entitle them to university education. In addition, they will need to prove that they have the necessary command of German for a university education. Moreover, they will have to get an official recognition of their courses of study and exams passed abroad if they want to enter into a higher academic year in Germany.

5.2.2 Access to employment

Since the amendment to the Residence Act of 6 September 2013, holders of a residence title for the purpose of family reunification are entitled to pursue an economic activity (Section 27 subs. 5 of the Residence Act).

5.2.3 Access to vocational guidance and training

New immigrants aged above 27 are entitled to advice from the Migration Advice Service for Adult Immigrants (MBE). Children, adolescents and young adults aged up to 27 can get advice from the Youth Migration Services (JMD). Both the MBE and the JMD provide individual advice for a limited period of time (Section 45 first sentence of the Residence Act in conjunction with Section 75 no. 9). For example, the advice offices support people in finding a job or apprenticeship and give advice on residence topics or the recognition of vocational or educational qualifications from the countries of origin or from third countries (Brandt/Risch/Lochner 2015).

In addition, all new immigrants (and Germans with a migration background) who are no longer subject to compulsory education can attend language courses for professional purposes (Section 45a of the Residence Act), which, since 1 July 2016, form part of the regular toolkit of federal language support in Germany.

“The language courses for professional purposes are provided by the Federal Office for Migration and Refugees and are based on the integration courses. During the integration courses, immigrants learn everyday German. The subsequent modules for German for professional purposes and for additional qualifica-

tions help to prepare migrants and refugees for the labour market. The language courses for professional purposes consist of different modules, which can be individually combined, and combine German language lessons with measures by the Federal Employment Agency” (BAMF 2016b; see also BAMF 2016c).

The language courses for professional purposes consist of three basic modules, each of which consists of 300 45-minute lessons and prepares for certificate examinations in line with the Common European Framework of Reference for Languages. In addition, there are a number of special modules with the following foci:

- “1. One focus of the special modules is German for professional purposes for persons undergoing the recognition procedure.
2. Other special modules will focus on different fields of activity and provide specific content, for example in the healthcare sector or in commercial fields.
3. In addition, there will be special modules for integration course participants who have not achieved level B1. There will be special modules with an entry level of A1 and A2 for this group” (BAMF 2016a).

5.2.4 Autonomous right of residence independent of that of the sponsor

The right to apply for autonomous right of residence independent of that of the sponsor varies depending on the group of persons.

Spouses and registered partners

In the event of termination of marital cohabitation or civil partnership, the spouse’s or registered partner’s residence permit will be extended by one year as an independent right of residence unrelated to the purpose of the subsequent immigration of dependants if

- “1. marital cohabitation has lawfully existed in the federal territory for at least three years or
2. the foreigner has died while marital cohabitation existed in the federal territory

and the foreigner was in possession of a residence permit, settlement permit or EU long-term residence permit up to this point in time, unless he or she was unable to apply for an extension in time for reasons beyond his or her control. Sentence 1 shall not apply if no extension of the foreigner’s residence permit is permissible or if it is not permissible to issue the foreigner with a residence permit or EU long-term residence permit because this is

precluded by a rule of law on account of the purpose of residence or by a subsidiary provision attaching to the residence permit pursuant to Section 8 subs. 2.

The requirement stipulated in subs. 1 sentence 1 no. 1 for marital cohabitation to have existed lawfully for three years in the federal territory shall be waived if necessary to enable the spouse to continue his or her residence in order to avoid particular hardship, unless an extension of the foreigner's residence permit is not permitted. Particular hardship shall be deemed to apply if the obligation to return to the country of origin resulting from the termination of marital cohabitation threatens to substantially harm the foreigner's legitimate interests, or if the continuation of marital cohabitation is unreasonable due to the harm to the foreigner's legitimate interests; in particular this is to be assumed where the spouse is the victim of domestic violence. Such legitimate interests shall also include the well-being of a child living with the spouse as part of a family unit. In order to avoid abuse, extension of the residence permit may be refused if the spouse is reliant on benefits in accordance with Book Two or Book Twelve of the Social Code for reasons for which he or she is responsible.

By way of derogation from Section 9 subs. 2 sentence 1 nos. 3, 5 and 6, the spouse shall also be granted a settlement permit if the spouse's subsistence is ensured after the termination of marital cohabitation by maintenance payments from the foreigner's own funds and the foreigner possesses a settlement permit or an EU long-term residence permit.

Without prejudice to subs 2 sentence 4 claiming benefits in accordance with Book Two or Book Twelve of the Social Code shall not preclude extension of the residence permit. The residence permit may thus be extended for a limited period for as long as the conditions for granting the settlement permit or EU long-term residence permit have yet to be met" (Section 31 of the Residence Act).

Adult child

Upon a child coming of age, the residence permit granted to the child shall become an independent right of residence which is unrelated to the purpose of family reunification. "The same shall apply in the case of the granting of a settlement permit and an EU long-term residence permit or if the residence permit is extended accordingly pursuant to Section 37" (Section 34 subs. 2 of the Residence Act).

Minor child

"By way of derogation from Section 9 subs. 2, a minor foreigner who possesses a residence permit in accordance with this Part shall be granted a settlement permit if he or she has been in possession of the residence permit for five years on reaching the age of 16. The same shall apply if

1. the foreigner is of age and has been in possession of the residence permit for five years,
2. he or she has a sufficient command of the German language, and
3. his or her subsistence is ensured or he or she is undergoing education or training which leads to a recognised school, vocational or higher education qualification.

Periods in which the foreigner has attended school outside of the federal territory shall not normally be taken into consideration with regard to the required duration of possession of a residence permit as stipulated in subs. 1.

No entitlement to the granting of a settlement permit pursuant to subs. 1 shall apply if

1. a reason for expulsion based on the foreigner's personal conduct applies,
2. the foreigner has been sentenced to a term of youth custody of at least six months or a prison term of at least three months or a fine of at least 90 daily rates in the past three years due to an intentionally committed offence, or if a youth prison sentence has been suspended, or
3. the foreigner's subsistence cannot be assured without claiming benefits in accordance with Book Two or Book Twelve of the Social Code or juvenile welfare pursuant to Book Eight of the Social Code, unless the foreigner is undergoing education or training which leads to a recognised school or vocational qualification.

The settlement permit may be granted or the residence permit extended in the cases covered by sentence 1. If, in cases covered by sentence 1 no. 2, the foreigner is placed on probation or the youth prison sentence is suspended, the residence permit will generally be extended until the end of the probationary period.

The requirements stipulated in subs. 1 sentence 2 nos. 2 and 3 and subs. 3 sentence 1 no. 3 shall be waived if the foreigner is unable to fulfill them on account of a physical, mental or psychological illness or handicap" (Section 35 of the Residence Act).

Family reunification of other dependants

In case of the right to apply for autonomous right of residence independent of that of the sponsor for other dependants Section 31 of the Residence act applies (see above; Section 36 subs. 2 sentence 2 of the Residence Act).

Other minor family members

In case of the right to apply for autonomous right of residence independent of that of the sponsor for other dependants Section 34 of the Residence act applies (see chapter 5.3; Section 36 subs. 2 sentence 2 of the Residence Act).

5.2.5 Naturalisation

Third-country nationals, who immigrated to Germany for family reunification purposes, do generally have the right to naturalisation, if they,²⁵

- are capable of acting (as from completion age 16) or are legally represented,
- confirm their commitment to the free democratic constitutional system enshrined in the Basic Law of the Federal Republic of Germany (activities subverting the free democratic constitutional system or other extremist or terrorist activities rule out the right to acquire the German citizenship),
- have legally resided in Germany for eight years,
- have been granted a permanent right of residence,
- are able to ensure their own subsistence and the subsistence of their dependants without recourse to benefits in accordance with Book Two or Book Twelve of the Social Code or recourse to such benefits is due to conditions beyond their control,
- have not been sentenced for a criminal offence (Section 10 subs. 1 of the Nationality Act (StAG)).

Furthermore, level B1 German language skills are required as well as knowledge about the legal system, society and living conditions in Germany. The latter can be proved by taking the uniform nationwide naturalisation test.

Under Section 10 subs. 1 no. 4 of the Nationality Act German citizenship can only be awarded, if the previous citizenship has been given up. The former nationality can be maintained alongside the German one pursuant to Section 12 subs. 1 sentence 2 no. 1 and 2 of the Nationality Act, if the country of origin does in fact not foresee any release from its citizenship (which applies among others to Afghanistan, Eritrea, Syria). Naturalisation may already be applied for after seven years of stay in Germany if the

Federal Office for Migration and Refugees proves the successful attendance of an integration course (Section 10 subs. 3 sentence 1 of the Nationality Act). Naturalisation may already be applied for after a six year of stay in Germany, when special integration efforts have been made, specifically if level B2 language skills have been acquired (Section 10 subs. 3 sentence 2 of the Nationality Act).

In case of a reunification of a spouse or registered partner with a German the requirements are eased (Section 9 of the Nationality Act).

5.3 Own right or a ‘derived’ residence permit of family members of refugees and/ or beneficiaries of subsidiary protection

As a general rule, residence permits issued for the purpose of family reunification – be it with Germans (Section 28 of the Residence Act), third-country nationals (Section 29 of the Residence Act), spouses or registered partners (Section 30 of the Residence Act), parents (Section 32 of the Residence Act), children or other family members (Section 36 of the Residence Act) – are derived residence titles, which are tied to the lawful residence of the sponsor in Germany, at least for the first few years. That is why residence permits for the purpose of family reunification are usually issued for at least one year and at most for the period covered by the residence permit of the family member, spouse or registered partner residing in Germany. Once certain transitional periods are over and additional requirements are met, the individual groups of family members may be granted an independent right of residence (Sections 31, 34 and 35 of the Residence Act).

These provisions also apply to family members who join third-country nationals who are granted the right to asylum, recognised refugees and beneficiaries of subsidiary protection. However, there is also another option for the family members of these status groups: family asylum or international protection for family members pursuant to Section 26 of the Asylum Act:

- “(1) The spouse or registered partner of a person granted asylum status shall be granted asylum upon application if
1. the recognition of the foreigner's asylum status is incontestable,
 2. the marriage or civil partnership with persons granted asylum status already existed in the country where the person granted asylum status is politically persecuted,

²⁵ Chapter 5.2.5 is based on the template in Grote/Bitterwolf/Baraulina 2016: 36.

3. the spouse or partner entered the country before the foreigner was granted asylum status, or if he filed the asylum application immediately after entry, and
 4. there is no reason to repeal or withdraw the recognition of the person granted asylum status.
- (2) A child of the foreigner who was minor and unmarried at the time the asylum application was filed shall be granted asylum status if the foreigner's asylum status is incontestable and there is no reason to repeal or withdraw this status.
- (3) The parents of a minor unmarried person granted asylum or other adults as defined in Article 2 (j) of Directive 2011/95/EU shall be granted asylum upon application, if
1. the recognition of the foreigner's asylum status is incontestable,
 2. the family within the meaning of Article 2 (j) of Directive 2011/95/EU already existed in the country where the person granted asylum status is politically persecuted,
 3. they entered the country before the person was granted asylum status or if they filed the application for asylum immediately after entry,
 4. there is no reason to repeal or withdraw the recognition of the person granted asylum status, and
 5. if they have the right of care and custody for the person granted asylum status.

The first sentence, nos. 1 to 4 above shall apply accordingly to minor and unmarried siblings of a minor granted asylum status" (Section 26 subs. 1 – 3 of the Asylum Act).²⁶

Pursuant to Section 26 subs. 4 of the Asylum Act, the family asylum or the international protection for family members do not apply to family members

- who, for serious reasons, are to be regarded as a threat to the security of the Federal Republic of Germany or constitute a threat to the general public because they have been finally sentenced to a prison term of at least three years for a crime or a particularly serious offence (Section 60 subs. 8 first sentence of the Residence Act),
- who, for serious reasons, are thought to have committed an offence against the peace, war crimes or

²⁶ Section 26 subs. 2 and 3 of the Asylum Act do not apply to children of foreigners who themselves have been granted asylum status pursuant to subsections 2 or 3.

humanitarian crimes within the meaning of the international agreements concerning such offences; have committed serious non-political crimes outside the Federal Territory before their recognition as refugees, in particular cruel acts, even though this was allegedly in pursuit of political goals, or acted against the goals and principles of the United Nations. This applies also to foreigners who have incited others to these crimes or acts or participated in them in any other way (Section 3 subs. 2 of the Residence Act),

- whose deportation has not been suspended by the Federal Office for Migration and Refugees pursuant to Section 60 subs. 1 of the Residence Act because "the foreigner is to be regarded as a threat to the general public because he or she has been non-appealably sentenced to at least one year's youth custody or prison for one or more intentionally committed offences against the life or limb or sexual self-determination of a person, against property or for resistance against enforcement officers, provided that the offence was conducted through the use of force, through threats of danger to life or limb or through deception" (Section 80 subs. 8 third sentence of the Residence Act).
- These provisions apply not only to family members of third-country nationals who are granted the right to asylum, but also to recognised refugees and beneficiaries of subsidiary protection (Section 26 subs. 5 of the Asylum Act).

These provisions apply not only to family members of third-country nationals who are granted the right to asylum, but also to recognised refugees and beneficiaries of subsidiary protection (Section 26 subs. 5 of the Asylum Act).²⁷

5.4 Fees for the visa and the residence title

The fee for a visa payable to the German diplomatic mission abroad amounts to EUR 60 per person (Section 46 of the Ordinance Governing Residence). This fee will be waived for spouses, registered partners and minor unmarried children who join Germans and for parents of minor Germans who join their children (Section 52 subs. 1 of the Ordinance Governing Residence).

The issuance of a residence permit in Germany for a period of up to one year costs EUR 100, for a period of more than one year EUR 110 (Section 45 of the

²⁷ "Subsections 1 to 5 shall not apply if the foreigner has suffered persecution as referred to in Section 3 subs. 1 or faces serious harm as referred to in Section 4 subs. 1 from the family members within the meaning of subs. 1 to 5, or if he has already suffered such persecution or serious harm" (Section 26 subs. 6 of the Asylum Act).

Ordinance Governing Residence). Fees for minors are half that amount (Section 50 of the Ordinance Governing Residence).

Visa and residence title fees for Turkish nationals and their family members who possess a right of residence in accordance with the EEC/Turkey Association Agreement will be reduced as well. Depending on the age of the applicants, the fees will vary between EUR 22.90 and EUR 28.80 (Section 52a of the Ordinance Governing Residence).

In addition, the fees may be reduced or waived if this appears adequate in view of the economic situation of the fee payer in Germany (Section 53 subs. 2 of the Ordinance Governing Residence).

5.5 Consequences in case of not fulfilling obligations after the entry

As described above, immigrants for family reunification purposes may be obliged to attend an integration course or at least parts of an integration course (orientation course). Not attending the integration course may have concrete consequences for the extension (or non-extension) of the residence title of the immigrant.

Stage(s) after admission at which it is examined whether conditions have been fulfilled

Regular attendance of the integration course will be examined before the residence title is extended.

Consequences for not fulfilling one of the conditions

The consequences for not fulfilling one's obligations are largely determined by whether the non-attendance of the integration course or failing the final exams of the integration course is due to reasons which the respective person him- or herself is responsible for. If a third-country national fails to meet his or her attendance obligation for reasons for which he or she is responsible or fails to pass the final test, prior to extending his or her residence permit the competent foreigners authority shall inform the third-country national of the possible consequences of his or her actions. The foreigners authority may take administrative enforcement measures in order to enjoin the third-country national to meet his or her obligation to attend. In case of non-compliance with the obligation to attend, the prospective charge to cover costs may also be levied in advance in a single sum by issuing an official notice of fees (Section 44a subs. 3 of the Residence Act).

The consequences for one's action refer to the following issues:

1. "Before the residence permit is extended, it must be ascertained whether the foreigner has fulfilled his or her obligation to duly attend an integration course. If a foreigner breaches his or her obligation to duly attend an integration course pursuant to Section 44a subs. 1 sentence 1, this shall be taken into account in the decision on extending the residence permit. Where no entitlement to issuance of the residence permit exists, extension of the residence permit shall be refused in the case of repeated and gross breach of the obligations pursuant to sentence 1. Where an entitlement to extension of the residence permit applies only pursuant to this Act, extension may be refused unless the foreigner furnishes evidence that he or she has achieved integration into the community and society by other means. In reaching a decision on this matter, due consideration shall be given to the duration of lawful stay, the foreigner's legitimate ties to the federal territory and consequences of the termination of residence for dependants of the foreigner who are lawfully resident in the federal territory. If a foreigner was or is obliged to attend an integration course pursuant to Section 44a subs. 1 sentence 1, the residence permit shall be extended for at most one year if he or she has not successfully completed the integration course or has not yet furnished evidence that that he or she has achieved integration into the community and society by other means" (Section 8 subs. 3 of the Residence Act).

According to Section 8 subs. 4 of the Residence Act, these provisions shall not be applicable to the extension of a residence permit issued to third-country nationals who are granted the right to asylum, recognised refugees and beneficiaries of subsidiary protection or to third-country nationals whose deportation got suspended pursuant to Section 60 subs. 5 and 7 of the Residence Act. Provided that the immigrating family member applies for family asylum respectively international protection for family members pursuant to Section 26 of the Asylum law and was granted one of the mentioned protection status the requirements pursuant to Section 8 subs. 3 of the Residence Act also apply for the immigrating family members.

2. Granting of a settlement permit may either be denied due to insufficient command of the German language and/or lack of basic knowledge of the legal and social system and the way of life in the federal territory or the process may be delayed until the requirements are met (Section 9 subs. 2 sentence 1 nos. 7 and 8 of the Residence Act; see also Section 26 subs. 3 of the Residence Act).
3. Granting of an EU long-term residence permit may either be denied due to insufficient command of

the German language and/or lack of basic knowledge of the legal and social system and the way of life in the federal territory or the process may be delayed until the requirements are met (Section 9a subs. 2 sentence 1 nos. 3 and 4 of the Residence Act).

4. The naturalisation may either be denied due to insufficient command of the German language and/or lack of basic knowledge of the legal and social system and the way of life in the federal territory or the process may be delayed until the requirements are met (Section 10 subs. 1 sentence 1 nos. 6 and 7 of the Nationality Act (StAG)). Furthermore, an early naturalisation after seven years already may be denied, which may be granted to those third-country nationals who successfully participated in the integration course and who fulfill all other requirements (Section 10 subs. 3 of the Nationality Act).

6 National and international case law

Several international and national court decisions have resulted in changes in German legislation concerning family reunification. These included both, a decision by the European court of Justice (ECJ) and decisions on the national level by the Federal Administrative Court.

6.1 Changes in policy and/ or practice following ECJ case law

European Court of Justice decision on Turkish spouses demonstrating language skills in their country of origin (Doğan-decision)

On 10 July 2014, the ECJ ruled (C-138/13) that requiring Turkish spouses immigrating to Germany to demonstrate basic German language skills is in violation of the standstill clause of the Ankara Agreement (ECJ 2014). The standstill clause prohibits the introduction of new restrictions on the freedom of establishment (i.e., restrictions not already in place when this clause took effect in Germany in January 1973). Requiring the demonstration of German language skills in the country of origin as introduced in 2007 impedes family reunification, constituting a new restriction on the exercise of the freedom of establishment by Turkish nationals under the terms of this clause. The ECJ emphasises “that family reunification is an indispensable means of facilitating the family life of Turkish workers in the labour market of the Member States, and contributes to both improving the quality of their residence and promoting their integration in these states”. However, the ECJ also finds that a new restriction could be introduced on compelling grounds of public interest, if it is suitable “for achieving a legitimate goal”, and does not exceed what is necessary to do. According to the ECJ, the Ankara Agreement was violated due to the required proof of basic German language skills which left no room for considering any special circumstances in each case. The Federal Government is currently reviewing the effects and extent of the ECJ’s ruling (BAMF/EMN 2015: 25 et seq.).

On 1 August 2015, a general rule on cases of hardship for joining spouses was introduced. If a foreigner wants to re-join a German or foreign spouse, the proof of language skills may be “waived if, due to individual circumstances

of the case, attempting to learn basic German is impossible or unreasonable for the spouse” (Section 30 subs. 1 third sentence no. 6 of the Residence Act). This provision meets the requirements by the European Court of Justice, which decided on 10 July 2014 in the so-called Doğan case that the proof of language skills required since 2007 for Turkish spouses was not compatible with the so-called “standstill” clause of the Association Agreement with Turkey (BAMF/EMN 2016: 26).

6.2 Changes in policy and/ or practice following national case law (since 2011)

Language requirement applies to third-country nationals moving to Germany to join a German spouse, albeit to a lesser extent.

The Federal Administrative Court determined in a landmark decision handed down on 4 September 2012 that the legal requirement of a spouse immigrating to join a German spouse having to prove they have a command of the German language can only apply to a limited extent. This decision says that a visa must be issued to an immigrating spouse if it is not possible or reasonable in individual cases for them to endeavour to learn the basics of the German language or if they have not succeeded in doing so within one year. These restrictions do not apply to spouses immigrating to join foreign nationals (Federal Administrative Court 10 C 12.12, decision handed down on 4 September 2012; cf. BAMF/ EMN 2013: 24 et seq.).

Right of parents of an underage refugee to join their child until the child reaches the age of full legal accountability

The Federal Administrative Court (Bundesverwaltungsgericht (BVerwG)) ruled on 18 April 2013 that in principle both parents of an underage refugee who is residing in Germany are entitled to join their child. (BVerwG 10 C 9.12). However, this entitlement only applies until the child reaches the age of full legal accountability. The Court also outlined in its ruling that parents must have the possibility to effectively enforce their right to a visa with the

help of a temporary injunction before the child reaches the age of full legal accountability, as anything to the contrary would prevent them from joining their child (BAMF/EMN 2013: 26).

Residence permit also available to patchwork families for the purposes of family reunification

The Federal Administrative Court ruled on 30 July 2013 that third-country nationals living in Germany with their partner and children in a patchwork family are entitled to a resident permit in cases of extraordinary hardship if this is necessary to avoid infringing Article 6 of the Basic Law (BVerwG 1 C 15.12; BAMF/EMN 2013: 26).

Federal Administrative Court decision to abolish permit-free residence for Turkish children

On 6 November 2014, the BVerwG handed down a decision stating that children born in Germany to Turkish workers and who required a residence permit (regulated in Section 33 of the Residence Act) due to the current legal situation cannot invoke the exemption from the residence permit requirement that used to apply (BVerwG 1 C 4.14). While the Ankara Agreement between the EEC and Turkey generally prohibits detrimental changes to the legal situation, extending the residence permit requirement to include third-country nationals under the age of 16 is justified by a compelling reason of public interest, namely the intention to effectively control immigration (BVerwG 2014; BAMF/EMN 2015: 25).

7 Conclusions

Article 6 of the Basic Law puts marriage and the family under the special protection of the state. All national provisions concerning the family reunification of Germans or third-country nationals with other third-country nationals in Germany are set out in the German Residence Act while the provisions for the family reunification of EU citizens with third-country nationals are set out in the Act on the General Freedom of Movement for EU Citizens and are therefore not covered by this study. The right to family reunification refers above all to the core family, i.e. spouses and registered partners as well as minor children who join their parents or parents who join their unaccompanied minor children. Civil partnerships receive practically equal treatment with marriages in terms of family reunification. Under certain conditions, other family members may migrate to Germany as well.

Generally speaking, there are six central conditions for family reunification with third-country nationals: The sponsor must possess a valid residence permit, must be able to provide sufficient living space, healthcare insurance and sufficient means of subsistence for themselves and their family members. In addition, certain groups of immigrants will need to provide proof of meeting specific 'integration measures' before and/or after their arrival in Germany. Spouses and registered partners usually must be at least 18 years of age.

Certain conditions for family reunification may or are to be waived for certain groups of immigrants. This applies, for example, to the requirement of secure subsistence in the case of resettlement refugees, third-country nationals who are granted the right to asylum, recognised refugees and beneficiaries of subsidiary protection.

Family reunification is restricted for beneficiaries of subsidiary protection. Family reunification will be suspended until 16 March 2018 for all those who were granted a residence permit for subsidiary protection purposes after 17 March 2016. During the two-year suspension, this will only be possible in cases of special hardship under international law provisions or for urgent humanitarian reasons.

Family reunification will not be permitted in case of a forced marriage or civil partnership or a marriage or civil partnership of convenience. In addition, the application for family reunification may be refused if the sponsor does not meet certain requirements, in particular the

requirement of sufficient means of subsistence. Family reunification will not be permitted either if the sponsor is non-enforceably or enforceably required to leave the country or belongs to a number of other status groups.

The number of residence titles granted to third-country nationals for the purpose of family reunification with Germans or third-country nationals has risen considerably since 2014. Between 2010 and 2013, the number of residence titles granted for the purpose of family reunification amounted to just below 55,000 per year. In 2014, the number of residence titles granted for the purpose of family reunification jumped to 63,677. In 2015, the number of residence titles granted for the purpose of family reunification rose further, to a total of 82,440.

Most of these residence titles were issued to wives or female registered partners who joined their husbands or registered partners. Minor children are the second-largest group in recent years. Husbands and male registered partners are the third-largest group, ahead of parents and other family members. In 2015, the ten most important countries of origin were Syria, Turkey, the Russian Federation, India, Kosovo, the USA, Ukraine, China, Iraq and Bosnia and Herzegovina.

The significant increase in the number of asylum applicants and beneficiaries of protection over the last few years has created considerable challenges for both the families and for the German diplomatic missions abroad, particularly in the neighbouring countries of Syria, where visa applications for Germany are processed. Even though numerous measures have been taken to accelerate the procedure, the staff capacities are not sufficient to process all applications quickly; in fact, waiting periods for filing an application temporarily amounted to more than one and a half years at certain diplomatic missions. Additional staff increases, infrastructural measures and accelerated procedures have been introduced to tackle the backlog; however, due to the significant increase in the number of beneficiaries of protection, the number of persons entitled to file an application and the number of actual applicants is rising as well. Though, the restricted family reunification for beneficiaries of subsidiary protection will significantly delay the reunification process.

Annex

Table 4: The top 20 countries of origin of immigrants for family reunification purposes numerically (2015)

Arrival of ...	Wives/ female registered partners joining Germans	Husbands/ male registered partners joining Germans	Wives/ female registered partners joining foreigners	Husbands/ male registered partners joining foreigners	Children joining Germans	Children joining foreigners	Parents joining Germans	Parents joining foreigners	Other family members joining Germans	Other family members joining foreigners	Total
Syria	128	57	4,648	397	10	9,952	40	345	0	379	15,956
Turkey	1,271	2,072	1,822	703	54	910	862	2	4	20	7,720
Russian Federation	1,953	374	705	98	247	958	363	2	1	25	4,726
India	165	133	2,523	132	21	1,550	78	0	0	3	4,605
Kosovo	389	468	1,251	320	52	1,163	162	0	0	3	3,808
USA	382	624	693	161	23	931	268	4	4	8	3,098
Ukraine	1,072	174	525	73	60	641	135	0	0	13	2,693
China	612	45	874	167	11	776	141	0	0	9	2,635
Iraq	157	63	396	59	14	807	104	91	1	108	1,800
Bosnia and Herzegovina	130	161	557	270	3	552	99	0	1	2	1,775
Japan	115	17	824	13	0	748	26	0	0	0	1,743
Morocco	696	442	225	45	9	116	137	1	1	0	1,672
Serbia (incl. former Serbia & Montenegro)	200	187	394	215	5	357	255	1	0	3	1,617
Pakistan	205	122	482	40	58	553	79	2	0	2	1,543
Thailand	939	54	32	10	15	259	123	0	0	5	1,437
Brazil	409	151	345	51	11	313	143	1	1	7	1,432
Macedonia	104	139	355	114	13	345	101	0	0	3	1,174
Tunisia	295	529	164	18	6	65	93	0	0	1	1,171
Vietnam	287	42	199	91	10	306	185	1	0	6	1,127
Iran	256	86	366	106	7	208	22	3	0	9	1,063
All countries	14,245	8,524	21,074	3,724	1,219	26,714	5,656	522	16	746	82,440

Source: Central Register of Foreigners; issued residence permits for family reasons, incl. those, who entered without the need for visa or initially entered for a different purpose

Table 5: The top 20 countries of origin of immigrants for family reunification purposes numerically (2014)

Arrival of ...	Wives/ female registered partners joining Germans	Husbands/ male registered partners joining Germans	Wives/ female registered partners joining foreigners	Husbands/ male registered partners joining foreigners	Children joining Germans	Children joining foreigners	Parents joining Germans	Parents joining foreigners	Other family members joining Germans	Other family members joining foreigners	Total
Turkey	1,202	2,010	1,718	723	59	845	727	2	1	30	7,317
Russian Federation	1,929	372	572	68	229	753	329	1	0	33	4,286
India	170	158	2,263	97	36	1,199	65	0	1	3	3,992
Kosovo	410	512	1,232	389	47	1,020	150	0	0	6	3,766
USA	369	673	707	151	17	883	261	1	2	11	3,075
Syria	135	60	903	116	6	1,627	42	67	0	69	3,025
Ukraine	1,146	167	442	55	52	553	204	0	0	23	2,642
China	664	61	767	167	19	618	114	1	0	7	2,418
Pakistan	271	152	513	53	33	689	81	2	0	4	1,798
Japan	130	8	806	13	0	674	18	0	0	1	1,650
Morocco	612	415	228	33	8	94	110	0	0	4	1,504
Bosnia and Herzegovina	153	151	452	194	5	365	100	0	0	5	1,425
Serbia (incl. former Serbia & Montenegro)	169	151	379	189	8	257	255	0	1	8	1,417
Thailand	940	46	23	6	18	239	140	0	1	3	1,416
Tunisia	323	508	144	13	7	56	87	0	1	3	1,142
Iran	282	69	382	99	3	204	30	0	0	11	1,080
Brazil	317	124	216	42	13	219	124	0	0	9	1,064
Vietnam	255	51	195	100	6	261	174	0	0	13	1,055
Kazakhstan	402	197	26	4	197	103	93	1	0	10	1,033
Macedonia	93	134	297	154	11	219	92	0	0	5	1,005
All countries	14,218	8,510	15,712	3,236	1,150	15,041	5,307	107	10	386	63,677

Source: Central Register of Foreigners; issued residence permits for family reasons, incl. those, who entered without the need for visa or initially entered for a different purpose

Table 6: The top 20 countries of origin of immigrants for family reunification purposes numerically (2013)

Arrival of ...	Wives/ female registered partners joining Germans	Husbands/ male registered partners joining Germans	Wives/ female registered partners joining foreigners	Husbands/ male registered partners joining foreigners	Children joining Germans	Children joining foreigners	Parents joining Germans	Parents joining foreigners	Other family members joining Germans	Other family members joining foreigners	Total
Turkey	1,177	1,807	1,763	700	44	850	607	1	0	17	6,966
Russian Federation	1,989	326	462	75	117	832	281	1	2	23	4,108
India	162	109	1,985	70	18	1,116	79	0	0	3	3,542
Kosovo	409	515	1,080	381	37	768	142	0	0	5	3,337
USA	337	633	659	125	24	893	255	2	0	14	2,942
Ukraine	1,032	113	310	49	30	425	173	0	0	8	2,140
China	626	44	689	110	16	515	110	0	0	4	2,114
Japan	105	13	752	10	2	771	19	0	0	2	1,674
Thailand	996	41	26	3	19	321	114	0	0	6	1,526
Morocco	624	398	214	43	11	77	105	0	0	3	1,475
Serbia (incl. former Serbia & Montenegro)	172	180	379	212	5	247	193	0	2	1	1,391
Bosnia and Herzegovina	149	165	380	184	2	210	88	0	0	5	1,183
Pakistan	184	123	322	21	40	337	65	0	0	0	1,092
Tunisia	296	446	136	15	6	33	75	1	0	2	1,010
Brazil	284	121	194	35	4	214	97	0	0	4	953
Vietnam	280	43	177	88	5	186	147	0	0	7	933
Iran	251	61	326	67	5	176	26	1	0	11	924
Korea (Republic)	63	11	371	22	1	437	8	1	0	2	916
Macedonia	92	121	273	94	8	202	95	0	0	6	891
Syria	87	84	260	30	7	309	62	4	1	17	861
All countries	13,761	7,822	13,418	2,834	786	12,504	4,651	24	10	246	56,046

Source: Central Register of Foreigners; issued residence permits for family reasons, incl. those, who entered without the need for visa or initially entered for a different purpose

Table 7: The top 20 countries of origin of immigrants for family reunification purposes numerically (2012)

Arrival of ...	Wives/ female registered partners joining Germans	Husbands/ male registered partners joining Germans	Wives/ female registered partners joining foreigners	Husbands/ male registered partners joining foreigners	Children joining Germans	Children joining foreigners	Parents joining Germans	Parents joining foreigners	Other family members joining Germans	Other family members joining foreigners	Total
Turkey	1,175	2,012	1,898	795	46	842	540	0		24	7,332
Russian Federation	2,031	327	426	65	111	686	242	4	3	31	3,926
India	130	129	2,025	61	29	1,180	73	1	2	4	3,634
USA	392	622	671	121	30	1,039	206	1		8	3,090
Kosovo	369	473	995	343	48	477	128	0		2	2,835
China	611	53	671	96	19	425	97	0		2	1,974
Ukraine	997	100	248	48	17	367	148	0	1	11	1,937
Japan	132	12	813	12	2	855	17	0		1	1,844
Morocco	621	430	242	45	6	80	99	0		4	1,527
Thailand	979	50	30	8	25	300	120	0		1	1,513
Serbia (incl. former Serbia & Montenegro)	155	200	425	212	11	247	199	2		4	1,455
Brazil	344	123	209	27	9	233	124	0		6	1,075
Bosnia and Herzegovina	144	154	331	154	3	146	84	0		3	1,019
Tunisia	272	452	107	10	3	26	75	0		0	945
Vietnam	246	39	194	106	5	182	123	0		3	898
Korea (Republic)	70	9	345	16	1	423	11	0		0	875
Iran	239	73	266	67	4	169	16	0		11	845
Pakistan	164	105	208	27	23	209	58	0		0	794
Macedonia	79	107	199	113	11	136	114	0		1	760
Iraq	144	34	160	30	12	302	49	10		16	757
All countries	13,802	8,054	13,156	2,902	804	11,565	4,264	26	12	231	54,816

Source: Central Register of Foreigners; issued residence permits for family reasons, incl. those, who entered without the need for visa or initially entered for a different purpose

Table 8: The top 20 countries of origin of immigrants for family reunification purposes numerically (2011)

Arrival of ...	Wives/ female registered partners joining Germans	Husbands/ male registered partners joining Germans	Wives/ female registered partners joining foreigners	Husbands/ male registered partners joining foreigners	Children joining Germans	Children joining foreigners	Parents joining Germans	Parents joining foreigners	Other family members joining Germans	Other family members joining foreigners	Total
Turkey	1,279	2,179	2,262	937	52	1,062	573	1	1	17	8,363
Russian Federation	1,967	377	368	46	132	590	217	1	1	34	3,733
USA	404	569	731	125	21	1,187	198	1	1	17	3,254
India	134	114	1,667	46	30	905	70	0	0	4	2,970
Kosovo	375	429	1,023	343	46	434	111	0	2	7	2,770
Japan	190	20	789	11	10	809	39	0	0	2	1,870
China	578	65	595	106	17	351	75	0	0	3	1,790
Ukraine	919	114	232	27	13	339	116	0	0	12	1,772
Thailand	1,049	48	29	5	15	335	101	0	0	2	1,584
Morocco	573	451	214	44	13	71	73	0	0	2	1,441
Serbia (incl. former Serbia & Montenegro)	169	199	349	214	8	191	150	0	1	1	1,282
Brazil	368	101	190	25	10	269	100	1	0	7	1,071
Iraq	168	36	234	27	13	501	36	3	2	14	1,034
Vietnam	255	34	196	91	4	206	113	1	0	5	905
Bosnia and Herzegovina	137	110	298	149	10	118	70	0	0	2	894
Tunisia	208	431	116	13	1	28	64	0	0	1	862
Pakistan	223	164	228	17	25	137	63	0	0	3	860
Iran	264	62	242	42	10	157	16	0	0	5	798
Korea (Republic)	53	6	319	13	4	380	7	0	1	3	786
Macedonia	65	110	200	111	4	104	113	0	0	2	709
All countries	13,917	8,143	12,712	2,896	806	11,016	3,765	14	19	207	53,495

Source: Central Register of Foreigners; issued residence permits for family reasons, incl. those, who entered without the need for visa or initially entered for a different purpose

Table 9: The top 20 countries of origin of immigrants for family reunification purposes numerically (2010)

Arrival of ...	Wives/female registered partners joining Germans	Husbands/male registered partners joining Germans	Wives/female registered partners joining foreigners	Husbands/male registered partners joining foreigners	Children joining Germans	Children joining foreigners	Parents joining Germans	Parents joining foreigners	Other family members joining Germans	Other family members joining foreigners	Total
Turkey	1,358	2,111	2,271	839	83	1,124	548	1	3	28	8,366
Russian Federation	1,864	396	353	43	130	603	216	2	4	35	3,646
Kosovo	411	394	1,123	305	70	457	113	0	0	2	2,875
USA	377	584	607	123	34	984	133	0	0	7	2,849
India	151	107	1,415	47	47	794	48	0	0	4	2,613
Iraq	173	37	568	28	18	1,614	32	33	1	51	2,555
Thailand	1,163	53	26	7	16	361	96	0	1	5	1,728
Japan	153	19	714	7	5	745	25	0	0	1	1,669
Ukraine	849	115	142	33	9	296	116	0	1	8	1,569
China	560	44	482	74	24	287	54	0	0	2	1,527
Morocco	626	440	213	38	18	45	73	0	0	3	1,456
Serbia (incl. former Serbia & Montenegro)	164	165	332	183	15	186	176	0	0	7	1,228
Brazil	436	135	155	14	8	243	82	0	1	9	1,083
Vietnam	314	26	213	102	9	210	103	1	1	4	983
Tunisia	237	435	98	19	5	27	48	0	0	1	870
Pakistan	232	161	220	16	30	139	47	2	2	1	850
Korea (Republic)	50	7	319	12	2	397	10	0	0	2	799
Croatia	134	93	241	132	4	95	73	0	1	5	778
Bosnia and Herzegovina	86	104	263	152	4	108	49	0	2	3	771
Iran	249	66	225	32	12	151	8	0	0	5	748
All countries	14,208	7,972	12,462	2,729	1,021	11,845	3,453	43	26	277	54,036

Source: Central Register of Foreigners; issued residence permits for family reasons, incl. those, who entered without the need for visa or initially entered for a different purpose

Table 10: Total number of successful family reunification visa applications (2014-2016)

Status of the sponsor	2014			2015			2016 (January-September)		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
"Beneficiaries of international protection: - Refugees - Beneficiaries of subsidiary protection; - Unaccompanied minors (UAMs);"	NI	NI	NI	NI	NI	NI	NI	NI	NI
Persons admitted for remunerated activities*	NI	NI	NI	NI	NI	NI	NI	NI	NI
Persons admitted for study purposes	NI	NI	NI	NI	NI	NI	NI	NI	NI
Family member									
Wife reunifying with her TCN husband or registered partner	NI	15,342	15,342	NI	23,650	23,650	NI	22,539	22,539
Husband reunifying with his TCN wife or registered partner	3,359	NI	3,359	3,952	NI	3,952	3,191	NI	3,191
Wife reunifying with her German husband or registered partner	NI	11,291	11,291	NI	11,620	11,620	NI	8,868	8,868
Husband reunifying with his German wife or registered partner	6,026	NI	6,026	6,163	NI	6,163	4,630	NI	4,630
Children under 18 years of age reunifying with German or TCN parent	NI	NI	11,952	NI	NI	22,348	NI	NI	25,903
Others (Parents to their children, aunts, uncles, grandparents etc.)	NI	NI	2,594	NI	NI	4,926	NI	NI	6,235
Total	NI	NI	50,564	NI	NI	72,659	NI	NI	71,366

Source: Visa statistics of the Federal Foreign Office; NI = No information

Table 11: Total number of successful family reunification visa applications (2011-2013)

Status of the sponsor	2011			2012			2013		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
"Beneficiaries of international protection: - Refugees - Beneficiaries of subsidiary protection; - Unaccompanied minors (UAMs);"	NI	NI	NI	NI	NI	NI	NI	NI	NI
Persons admitted for remunerated activities*	NI	NI	NI	NI	NI	NI	NI	NI	NI
Persons admitted for study purposes	NI	NI	NI	NI	NI	NI	NI	NI	NI
Family member									
Wife reunifying with her TCN husband or registered partner	NI	11,807	11,807	NI	12,044	12,044	NI	12,202	12,202
Husband reunifying with his TCN wife or registered partner	3,098	NI	3,098	2,962	NI	2,962	3,046	NI	3,046
Wife reunifying with her German husband or registered partner	NI	11,555	11,555	NI	10,984	10,984	NI	11,641	11,641
Husband reunifying with his German wife or registered partner	6,190	NI	6,190	5,856	NI	5,856	5,888	NI	5,888
Children under 18 years of age reunifying with German or TCN parent	NI	NI	8,325	NI	NI	8,850	NI	NI	9,206
Others (Parents to their children, aunts, uncles, grandparents etc.)	NI	NI	NI	NI	NI	147	NI	NI	2,328
Total	NI	NI	40,975	NI	NI	40,544	NI	NI	44,311

Source: Visa statistics of the Federal Foreign Office; NI = No information

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Abbreviations

AA	Federal Foreign Office (Auswärtiges Amt)
AP	Admission Procedure
AMIF	Asylum Migration and Integration Fund
AsylbLG	Asylum-Seekers' Benefit Act (Asylbewerberleistungsgesetz)
AsylG	Asylum law (Asylgesetz - formerly Asylverfahrensgesetz – AsylVfG)
AsylVfG	Asylum Procedure Act (Asylverfahrensgesetz)
AufenthG	Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory / Residence Act (Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet/Aufenthaltsgesetz)
AufenthV	Residence Ordinance (Aufenthaltsverordnung)
AVwV	Administrative Regulation to the Residence Act (Allgemeine Verwaltungsvorschrift)
AZ	Reference number (Aktenzeichen)
AZR	Central Register of Foreigners (Ausländerzentralregister)
BAföG	Federal Training Assistance Act (Bundesausbildungsförderungsgesetz)
BAMF	Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge)
BMI	Federal Ministry of the Interior (Bundesministerium des Innern)
BMVg	Federal Ministry of Defense (Bundesministerium der Verteidigung)
BMZ	Federal Ministry of Economic Cooperation and Development (Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung)
BVerwG	Federal Administrative Court (Bundesverwaltungsgericht)
Cf.	Compare
COM	European Commission
EASO	European Asylum Support Office
EASY	Initial Distribution of Asylum-Seekers (Erstverteilung von Asylbegehrenden)
EC	European Community
ECJ	European Court of Justice (Europäischer Gerichtshof)
ECTHR	European Court of Human Rights (Europäischer Gerichtshof für Menschenrechte)
e.g.	For example
EMN	European Migration Network
ESF	European Social Fund
Et seq.	The following pages
EU	European Union
FreizügG/EU	Act on the General Freedom of Movement for EU Citizens Freedom of Movement Act/EU (Gesetz über die allgemeine Freizügigkeit von Unionsbürgern)
GER	Common European Framework of Reference for Languages (Gemeinsamer europäischen Referenzrahmen)

GG	Basic Law (Grundgesetz für die Bundesrepublik Deutschland)
HAP	Humanitarian Admission Programme
ISAF	International Security Assistance Force
IntV	Integration ordinance (Integrationsverordnung)
IOM	International Organization for Migration
JMD	Youth migration services (Jugendmigrationsdienste)
MBE	Migration Consultation for Adult Immigrants (Migrationsberatung für erwachsene Zuwanderer)
NATO	North Atlantic Treaty Organization
NGO	Non Governmental Organisation
NRW	Federal Land of North-Rhine Westphalia (Bundesland Nordrhein-Westfalen)
Rn	Marginal note (Randnummer)
StAG	Nationality Act (Staatsangehörigkeitsgesetz)
STMI	Bavarian State Ministry of the Interior, Construction and Transport (Bayerisches Staatsministerium des Innern, für Bau und Verkehr)
StVollzG	German Penal Code (Strafvollzugsgesetz)
Subs.	Subsection (of a legal act)
SVR	Expert Council of German Foundations on Integration and Migration (Sachverständigenrat deutscher Stiftungen für Integration und Migration)
UNHCR	United Nations High Commissioner for Refugees

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