

Immigration

Migrants living in Germany are here for various reasons: they came either as workers, ethnic German repatriates, refugees or dependants immigrating to join their families.

The Federal Republic of Germany has been an immigration country practically since it came into existence. In 1955 Germany and Italy signed the first agreement on the recruitment of foreigner workers. What has become known as the economic miracle needed workers. And so the first "guest workers" arrived in Germany.

In late 1973 - during the oil crisis - the German Government stopped the recruitment of foreign workers. Up until that time 2.6 million guest workers had already made their home in Germany.

However, the Immigration Act did not come into force until 1 January 2005. The law contains regulations on migrants coming to Germany as well as on the integration of foreigners living here.

<https://www.bundesregierung.de/Content/EN/StatischeSeiten/Schwerpunkte/Integration/kasten2-zuwanderung.html?nn=709674> (7.7.2016)

2015:

Bundestag Passed the new asylum law.

What will change?

Threat of expansion of Deportation detention: Law for the Right to stay and termination of the residence permission adopted.

On the 2nd of July the Bundestag adopted the redefinition of the right to stay and the termination of the residence permit. Parts of the law shows the intention of making the lives of those already residing in Germany better. At the same time legal opportunities will be created to act more rigorously against newly arrived asylum seekers. An overview of the changes and its consequences:

Grounds for detention in the Dublin procedure will be limitless

The new law creates the legal possibility to detain asylum-seekers for the sole reason that they entered Germany from another EU country. According to Chapter 15, paragraph 2, sentence 2, makes an arrest on Dublin grounds possible "when a foreigner leaves a member state before the conclusion of the asylum application process or the application for international protection". This will mean that the majority of asylum seekers falling under the Dublin III Regulation, can be taken into custody. This acts against the Dublin III Regulation, where it is stated that one cannot be arrested because of a Dublin-procedure.

Also particularly worthy of criticism is the reason for imprisonment described in §2, Chapter 14, number 4, after which a foreigner may be detained for paying large sums of money to a smuggler (§96 of the Residence Act) for his/her unauthorized entry.

How can people seeking protection enter Germany, without a so-called smuggler when legal means are largely cut off? Since 1980, Germany has systematically introduced the visa requirement for all countries of origin of asylum seekers. This was accompanied with the creation of sanctions for transport companies. Refugees cannot simply legally travel to Germany. They won't get a visa. They depend usually on smugglers to be able to seek refuge in Europe.

PRO ASYL fundamentally criticizes the detention of asylum seekers in Dublin procedures. Detention is a totally inappropriate measure against people seeking protection. In addition, a large proportion of asylum seekers are traumatized or, for other reasons, are particularly vulnerable – in these cases prison is above all unacceptable.

Right to stay for those who have Duldung for several years

The hypocritical approach of the past, to solve the problem of long term Duldung holders by giving a right to stay for everybody who applied before a specific date (Stichtag) some years before, is over. The new regulation to get a right to stay independently from a "Stichtag" is welcomed.

People living for several years in Germany will now be given the chance to finally acquire a secured residence. Even though there are still huge obstacles with integration and language learning, many of the Duldung holders will be able to benefit from the provisions of the Residence regulations.

People fulfilling following conditions can get a right to stay according to §25b:

- having stayed as a family with underage children for at least six years in Germany
- Residing without underage children for at least eight years in Germany
- Possess a minimum knowledge of German A2 and secure their livelihood by working primarily or those who will be likely to do so in the future. However, these conditions are not to be applied to those who can't work because of age, illness or disability.
- have revealed their identity, presented a passport or shown the effort by presenting such documents and didn't fulfill the criteria for deportation according to § 54.

It is positive that the life subsistence of the asylum seeker does not have to be already secured for granting or renewal time. The securing of the life subsistence of those with Duldung is currently a major problem because in some parts of Germany the remaining bans on asylum seekers exclude them from the labor market despite the liberalization of the employment law (see § 33 BeschVO).

This has statistically detectable consequences: in 2010 only 11% of Duldung holders were employed in Germany, according to a study of the Federal Office for Migration and Refugees' called: "Immigrants in the low-wage sector with special attention to Duldung holders and those allowed to stay".

It is unfortunate that this law, like the ones before, has a long list of exceptions.

At least it is not based on past misconduct. Excluded from accessing the right to stay are only those who still don't fulfill the obligation to cooperate.

On the negative side, family reunification is now absolutely impossible. Even after years, the people who received a residence permit through § 25b don't have the right to have their spouses brought to Germany. This is not acceptable, since the protection of marriage and the family must also apply to those who reside here permanently.

Improved right to stay for pupils – only partial protection from deportation during education

The existing residence permit to young Duldung holders under § 25a of the Residence Act has improved. The right to stay will be granted after four years, instead of six years, for those residing and attending school in Germany. This is positive. However, the regulation will still be unnecessarily restricted by rigid age limits. Namely, the right to stay for well-integrated young people (§ 25a) shall be granted only if they have attended school for four years before their 21st birthday.

This has problematic consequences: many unaccompanied minors will not benefit from the right to stay, since most of them are already 17 years old. From the general provisions on residence rights for the well-integrated, they can only benefit if they have lived at least eight years in Germany (§ 25b). The consequence: young people will be stuck with Duldung, the most precarious status for integration because it makes much more difficult for potential employers to invest in training for example.

In addition to this change, there are negotiations within the big coalition to give a right to stay for people in educational training, which means a long term Duldung (§ 60a para. 2) instead of a proper residence permit. The training must start before they reach the age of 21 years. And the person must not be a former asylum seeker whose country of origin is on the list of "safe countries of origin". That means, once again refugees from the Western Balkan countries are excluded.

At least the Duldung for those under Training last for a long period. But this cannot hide the fact that it does not create any right of residence. For many employers Duldung status gives a deterring signal. Often Duldung holders will not get the training in the first place. Those who really want to give young people a chance to integrate, must give them a proper residence permit!

New re-entry bans would criminalize West Balkan refugees

The new regulation, which allows the Federal Office to issue an entry and residence ban (§ 11 para. 7) to rejected asylum seekers coming from "safe-country of origin" is a further intensification which is directed against the West Balkan refugees. After the big coalition was established in 2014, with the approval of the Bundesrat in disregard of the massive human rights deficit in the countries of the Western Balkans, a discriminatory special treatment in the asylum procedure, there is now a further threat of discrimination.

If asylum seekers from Serbia, Bosnia-Herzegovina and Macedonia are provided EU-wide with an entry ban, this accompanies fatal politics of at least two of these countries (namely

Serbia and Macedonia). Roma will be particularly prevented to leave and will be interrogated and sanctioned when they are sent back/deported because of allegedly “illegal” stay abroad or supposedly provision of false declarations.

This trend is reinforced by the effects of the new § 11 Chapter 7 according to which the person concerned will receive a EU-wide entry ban and be intercepted at the EU’s external borders of Hungary or Bulgaria. Those who still manage to come to Germany will be threatened with a sanction by the criminal codex. Whoever enters bypassing visa bans can be prosecuted. This regulation will lead to a completely disproportionate criminalization of those affected.

Custody for those awaiting Deportation: constitutionally questionable

Custody for those awaiting deportation, which as an instrument has had hardly any practical relevance in the past recent years, will now be revived through various measures.

One of the most problematic aspects is the introduction of the so-called exit custody: if a collective deportation is planned, people can be imprisoned for four days without the usual constitutional requirements (existence of special grounds for detention). This is not compatible with European law and constitutional law.

The law doesn’t need approval by the Bundesrat. The hearing in the Bundesrat expected for the beginning of July will only be a formality. An exact date for the law entry into force is not yet known.

Translated by International Women Space from the Original text published by [Pro Asyl](#).

<http://oplatz.net/in-english-latest-changes-in-the-asylum-law/> (7.7.2016)

Cabinet meeting comes to a close

Integration Act is a milestone says Chancellor

The Chancellor sees it as a "milestone", while the Federal Economic Affairs Minister has termed it an "Immigration Act 1.0". At the close of its meeting at a retreat in Meseberg, the Cabinet adopted the Integration Act and the "Meseberg Declaration on Integration". The government also intends to push ahead with digitalisation.

Sigmar Gabriel and Angela Merkel present the outcome of the Cabinet meeting Photo:
Bundesregierung/Bergmann

"The adoption of the Integration Act is a milestone," underscored Chancellor Angela Merkel on Wednesday morning at the close of the two-day Cabinet meeting at its Meseberg retreat. Shortly before the Chancellor and the Federal Economic Affairs Minister Sigmar Gabriel arrived at the press conference, the Cabinet had reached agreement on the Integration Act,

which is based on the principle that the state provides assistance but equally expects incomers to do their bit for integration, Angela Merkel stressed.

Angela Merkel expects people to accept services offered

Germany offers asylum-seekers sound services to foster integration. In particular it is facilitating access to the job market and to integration courses. In this context, said the Chancellor, it is important that the Federal Office for Migration and Refugees and the Federal Employment Agency closely coordinate their activities. "But we also expect people to make use of these services, for more successful integration," explained the Chancellor. Lessons have been learned from the past, when people have failed to make use of the integration services on offer, she said.

A genuine paradigm shift, says Sigmar Gabriel

Federal Economic Affairs Minister Sigmar Gabriel spoke of a "genuine paradigm shift in Germany". He designated the Integration Act as an "Immigration Act 1.0". The state is taking a pro-active stance and addressing every individual arriving in Germany. The message to asylum-seekers: "If you make an effort you can make it here." Easier access to the job and training markets for refugees is also a major step forward in economic terms. Angela Merkel and Sigmar Gabriel both praised the "Meseberg Declaration on Integration" (extracts printed below).

Learning from past mistakes

Language, work and, yes, a set of values are the three crucially important components in successful integration, said Federal Interior Minister Thomas de Maizière on Wednesday morning at a joint press conference with Federal Labour Minister Andrea Nahles. All these points are reflected in the Integration Act.

He reported that the government has learned from past mistakes. People should not simply live side by side each in their own world. "We do not want to see any parallel societies and we do not want to see any ghettos," said Thomas de Maizière.

According to Andrea Nahles, the Integration Act offers a wide spectrum of effective job market services to refugees. "Many companies are open to these options although they almost certainly involve a lot of red tape and the details will not be that easy," said the Federal Labour Minister.

Discussing the issues that will shape the future

In Meseberg, the Chancellor reported, the Cabinet discussed immigration and digitalisation - the "classic issues for the future". With respect to digitalisation, the Cabinet had taken stock of "progress achieved to date in the implementation of the Digital Agenda". It is important to see how much has been achieved in terms of upgrading infrastructure, she said. And it must be ascertained what digitalisation means for industry. Specifically, Angela Merkel raised the issue of "driverless cars". This, she said, will "very rapidly lead to changes in the law".

Digitalisation affects every aspect of our life

The Cabinet also discussed the changes wrought by digitalisation in the working world. Angela Merkel reported that the focus is on lifelong learning and upgrading, as well as social safeguards and working time models. She pointed out that digitalisation is making itself felt "in every aspect of life" including family and professional life, health care and agriculture.

Federal Economic Affairs Minister Sigmar Gabriel issued a urgent plea for "European solutions" to the fundamental issues raised by digitalisation. He believes that new technologies should be seen as an excellent opportunity for Germany. As "the industrialiser of the world" Germany must hold its own against competitors from the USA and China, he said. One of the greatest challenges is to keep up with the breakneck pace of digitalisation in all sectors.

Meseberg Declaration on Integration (extracts)

- For successful integration it is indispensable that migrants learn German quickly, that they are swiftly integrated into training, tertiary studies and the job market, that they understand and respect the foundations on which German society is built, and that they respect the laws of the land.
- We are not starting from scratch in our efforts to address these issues. The principle of providing assistance but expecting incomers to do their bit is central to our integration-policy activities. Integration involves the offer of services, but it equally entails an obligation on the part of incomers to make an effort. Integration can only work as a two-way process.
- One guiding principle in our integration policy is justice, justice for those recognised as refugees here, and justice for the German people.
- Acquiring a sound command of the German language and an appreciation of the values of our society are a key foundation for successful integration into society and into education, training, tertiary study and the labour market. For this reason we will be improving access to integration courses. Incomers should learn German at as early a stage as possible.
- By allocating incomers to specific places of residence, it will be possible to more equally distribute people entitled to protection. At the same time this should serve to foster integration, avoid segregation that could obstruct integration efforts, and avoid the emergence of social hotspots.
- Integration measures should begin at an early stage. The labour market programme "Refugee integration measures" will use federal funding to create 100,000 additional job opportunities for individuals receiving benefits under the provisions of the Asylum-Seekers' Benefits Act.
- We are also creating greater legal certainty for individuals with tolerated residence status and companies offering training places. In future, trainees will be assured of tolerated residence status for the entire duration of their training.
- Access to the labour market will be further eased. For a period of three years, the requirement to ascertain that no German or EU citizens are available for a vacancy before a non-EU citizen is employed is to be suspended for asylum-seekers and individuals with tolerated residence status, depending also on the rate of unemployment in the region in

question and with the involvement of the individual federal states. This will also make it possible for this group to work as temporary workers.

- We have also laid down an obligation to cooperate on integration measures. Any individual refusing to participate in refugee integration measures or dropping out of such measures without good cause, will see their benefits under the Asylum-Seekers' Benefits Act cut.

- We have also modified the benefits system under the Asylum-Seekers' Benefits Act. In future certain misconduct will result in benefits being cut. It is to become more difficult to conceal relevant assets.

- In future individuals will be deemed to have a temporary residence permit when they are issued with the proof of arrival so as to eliminate uncertainties in practice to date. In this way we will ensure that asylum-seekers are given legally certain and early access to the labour market and to integration services, among other things.

- We will not accept attacks on women, children and other vulnerable individuals, whether they are citizens of our country or asylum-seekers and refugees.

- Asylum-seekers without good prospects of staying in Germany should also be given orientation during their stay in our country.

- Increasing the percentage of employees with a migrant background in German public authorities remains an important concern of the German government.

[Click here](#) for the full Meseberg Declaration (German only).

Wednesday, 25 May 2016

https://www.bundesregierung.de/Content/EN/Artikel/2016/05_en/2016-05-25-meseberg-gabriel-merkel-mittwoch_en.html?nn=709674 (7.7.2016)