

The challenges faced by the German asylum system today



CEA(R)

Comisión Española
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This report has been drawn up by the advocacy area of the Spanish Commission for Refugees (CEAR) in the context of the “*Observatory on the right to asylum, forced migrations and borders*” project funded by the Extremadura Agency for International Development Cooperation (AEXCID).

During the research and in order to make a diagnosis about how the international protection system is currently working in Germany, the CEAR team carried out meetings and interviews with UNHCR, the *Ankunftszentrum* in Berlin; Arrival Aid; *Betreuung Unbegleiteter Minderjähriger Flüchtlinge* (in one of the houses for accommodating unaccompanied minors it runs in Munich); AWO (in one of the first reception centres it runs in Berlin); the Federal Government Commissioner for Migration, Refugees and Immigration; the Bavarian Refugee Council; the Berlin Refugee Council; *Deutscher Paritätischer Wohlfahrtsverband Gesamtverband* (Refugee Aid); *Diakonie Deutschland*; the International Rescue Committee; the State Office for Refugee Affairs in Berlin; Refugees Welcome International; the Ministry of Labour and Social Affairs; the Federal Office for Migration and Refugees; Rainbow Refugees Munich; Stay Welcome and *Terre des Femmes*.

Front page image: CEAR (Berlin Wall, 2018)

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The Spanish Commission for Refugees (CEAR) is a non-profit organisation founded in 1979 that is engaged in voluntary, humanitarian, independent and joint action. Our aim is to work together with citizens to defend the right to asylum. Our mission is to champion and promote human rights and comprehensive development for asylum applicants, refugees, stateless people and migrants in vulnerable situations or at risk of social exclusion. Our work takes a comprehensive approach based on temporary accommodation; legal, psychological and social assistance; training and employment; and social advocacy and participation.

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List of Acronyms

UNHCR: United Nations High Commissioner for Refugees

BAMF: Federal Office for Migration and Refugees

CEAR: Spanish Commission for Refugees

CDU: Christian Democratic Union party

CSU: Christian Social Union party

ECRE: European Council on Refugees and Exiles

IQ: Integration through Qualification project

NGO: Non-Governmental Organization

SPD: Social Democratic Party of Germany

EU: European Union

1. Introduction

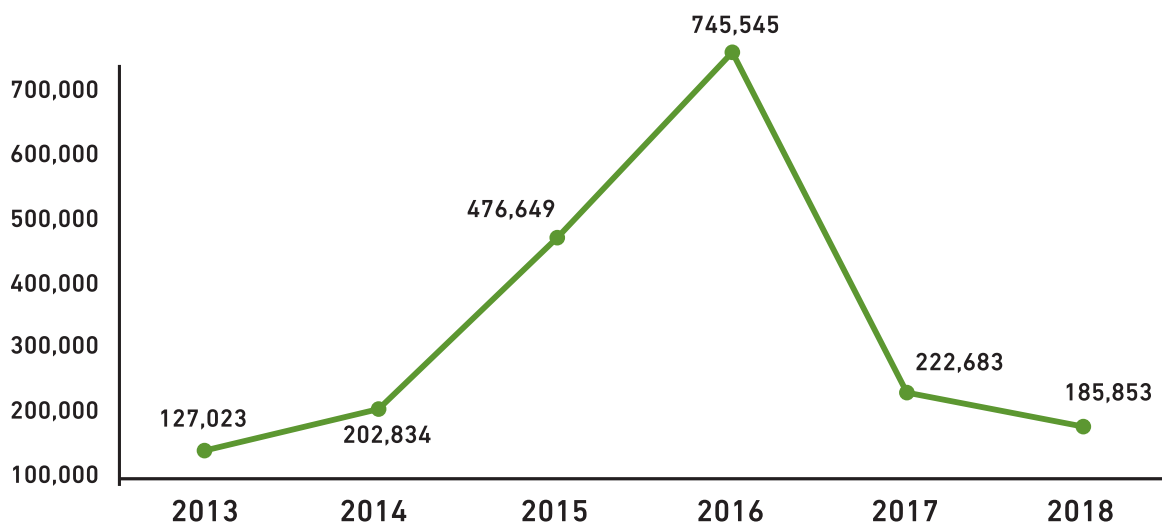
Together with Austria and Sweden, Germany has been one of the main destination countries for asylum applicants since 2015. From 2015 to 2017, over 1 million people arrived in the country in search of international protection. The number of asylum applicants has been falling due to the introduction of border control measures, the closure of the Balkans route and the EU-Turkey agreement coming into force in March 2016, but Germany is still the main destination country within Europe¹. The response from Germany to this situation via its migration policies and the way its international protection system is set up is of special interest for the Observatory on the right to asylum, forced migration and borders.

In this context, in September 2018, and taking into account the goals to defend human rights and the right to asylum, the Spanish Commission for Refugees (CEAR) carried out a research mission in order to analyze the current situation for asylum applicants and refugees in Germany, paying special attention to matters concerning the asylum process, accommodation and inclusion. The work was carried out by direct observation in the field and interviews with different key parties in the matter of asylum in Germany.

2. Context

Since 2012, Germany has been the country that has received the most international protection applications within the European Union (EU). As of 2013, the number of applications recorded in the country rose sharply until 2016, when the trend in the number of applications was reversed, falling to levels similar to those of 2014 (see Graph 1). In 2015, when the so-called “refugee crisis” began in Europe, the asylum applications recorded in Germany accounted for 36% of all those recorded in the EU. This share rose to 59.1% of the total, then fell again in 2017 to 31.5%².

Graph1. Evolution in the number of international protection applications in Germany from 2013 to 2018



Sources: BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, p. 15;
BAMF (2019): *Asylgeschäftsbericht für den Monat Oktober/Dezember 2018*, p. 2.

¹ In the international context, Germany is the sixth country receiving refugees and the second for asylum applicants, having been dislodged as the first country by the United States (UNHCR (2018): *Global trends: Forced displacement in 2017*, pp. 17 & 40: <https://www.unhcr.org/5b27be547.pdf>).

² European parliament: *A welcoming Europe?* (infographic): http://www.europarl.europa.eu/external/html/welcomingeurope/default_es.htm.

In 2017, there were 222,683 international protection applications recorded in Germany (198,317 of them were new applications, meaning there were 72.5% less than in 2016). The majority nationalities were Syrian, Iraqi and Afghan³. In 2018, the total number of asylum applications recorded in Germany came to 185,853 (161,931 new ones)⁴, which confirms the drop in asylum applications in the country for the second consecutive year. The main countries of origin for the people applying for asylum for the first time in 2018 were the same as those for 2017 (see Table 1), although the number of applications from those countries shows a general drop with the exception Iran and Nigeria (the third and fourth countries of origin respectively for asylum applicants in Germany, only behind Syria and Iraq⁵).

Out of the total number of asylum applications made in 2018, 43.3% were from women⁶, compared to 39.5% (78,413) in 2017⁷.

Table 1. Top 10 countries of origin of asylum applicants in Germany in 2018

Asylum applicant's country of origin	Total asylum applications (no.)	Variation compared to previous year (%)
Syria	44,167	-9.8 %
Iraq	16,333	-25.5 %
Iran	10,857	+26.1 %
Nigeria	10,168	+30.2 %
Turkey	10,160	-26.6 %
Afghanistan	9,942	-39.5 %
Eritrea	5,571	-45.5 %
Somalia	5,073	-25.8 %
Unknown	4,220	+3.8 %
Russia	3,938	-19.4 %

Sources: the author and BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 4.

Almost two thirds of all the asylum applications made in 2018 were submitted in the federal states in the west and south of the country: Northern Rhine-Westphalia, Bavaria, Lower Saxony, Baden-Württemberg and Hesse, in that order⁸. These are the states which, in turn, also receive the greatest number of asylum applicants, in keeping with the country's federal distribution quota⁹.

In 2018, the BAMF took decisions on a total of 216,873 applications (as opposed to 603,428 in 2017), including subsequent applications, which means 64.1% less than in 2017¹⁰. The number of refugee statuses granted came to 41,368 (compared to 123,909 in 2017), of which 44.1% (18,245) were granted to Syrians and 10.4% (4,311) to Iraqis. In fact, Syrian and Eritrean nationals are those who received the most subsidiary protection,

³ BAMF (2018): *Asylgeschäftsbericht für den Monat Dezember 2017*, pp. 2-4: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

⁴ BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 2: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

⁵ Ibid, page 4.

⁶ BAMF (2018): *Aktuelle Zahlen zu Asyl (Dezember 2018)*, p. 7: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/AktuelleZahlen/aktuelle-zahlen-asyl-node.html>.

⁷ BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, p. 24: <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/bundesamt-in-zahlen-2017.html?nn=9121126>.

⁸ BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 5: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

⁹ See point 4.1. of this report: *Accommodation and benefits*.

¹⁰ BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 2: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

whereas the most expulsion prohibitions (3,869)¹¹ were granted to Afghans¹².

As for nationalities, the highest rate of protection is for Syrians: 81.9% of Syrians' cases examined were given some kind of protection in 2018 (compared to 91.5% in 2017)¹³. The average for all nationalities came to 35% (75,971 positive decisions), meaning an 8.4% drop from 2017¹⁴.

In spite of the drastic fall in numbers of applications in 2017 and 2018, a change in perception of migrants and refugees is appearing, largely fed by political discourses¹⁵.

Three years ago, Germany was admired around the world for its welcoming culture – the images of the train stations in Munich were seen around the world. What has happened to this culture? Now there is only fear of the refugees¹⁶.

In this sense, it is important to note the approval in early July 2018, following several political discrepancies, of a Master Plan to reform asylum legislation¹⁷. The reform includes major penalties for asylum applicants who do not comply with the procedure's rules; the creation of group reception centres for asylum applicants known as *anker-Zentren* ("centres for arrival, decision and return", where the international protection procedure is carried out as well as penalty measures)¹⁸ managed at the state level, and a bolstering of the EU's outer borders¹⁹. Setting up the *anker-Zentren* entails the simultaneous signing of bilateral agreements for the speedy return of asylum applicants who have previously been registered in another European country²⁰. The first agreement of this kind was signed with Spain and came into force on 11 August 2018²¹. Italy and Greece signed in September, and there were plans for Portugal to do so²². Austria, the main country through which arrivals come to Germany, has not yet signed the agreement, and neither has Hungary²³.

¹¹ Protection granted by the German government guaranteeing persons will not be returned to their country of origin for humanitarian reasons (See point 3.1 of this report: *Types of protection*).

¹² BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 6: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

¹³ Idem; BAMF (2018): *Asylgeschäftsbericht für den Monat Dezember 2017*, p. 2: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>. The German Government's strong commitment to the Syrian population in recent years is worth noting. In 2017, Germany was the first donor to the United Nations' aid fund for Syria, in which it has invested €4.5 billion since 2012, and it is the top country for receiving applications from Syrian nationals. In April 2018, The Foreign Affairs Ministry announced an additional contribution of €1 billion for Syria and the neighbouring countries that were receiving Syrian refugees (Deutsche Welle (2018): "Germany to give additional €1 billion in aid to Syria", *Deutsche Welle*, 25 April, 2018: <https://www.dw.com/en/germany-to-give-additional-1-billion-in-aid-to-syria/a-43518468>).

¹⁴ BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 6: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

¹⁵ CHASE, J. (2018): "Refugee numbers in Germany dropped dramatically in 2017", *Deutsche Welle*, 16 January 2018: <https://www.dw.com/en/refugee-numbers-in-germany-dropped-dramatically-in-2017/a-42162223>.

¹⁶ Words from Willi Dräxler, head of migrations at Caritas-Munich, in May 2018 in the German Parliament (OLTERMANN, P. (2018): "Germany to roll out mass holding centres for asylum seekers", *The Guardian*, 21 May 2018: <https://www.theguardian.com/world/2018/may/21/germany-to-roll-out-mass-holding-centres-for-asylum-seekers>).

¹⁷ This reform plan was proposed by the Interior Minister, from the CSU, shortly after the government was formed. Although the German Chancellor, Angela Merkel, was initially opposed to it, it was able to go ahead at the start of summer thanks to her support, which was much criticised within and outside the country (ROUBANIS, I. (2018): "Merkel reaches a deal with her Bavarian partner", *NewEurope*, 3 July 2018: <https://www.neweurope.eu/article/merkel-reaches-deal-bavarian-partner/>; BENNHOLD, K. & EDDY, M. (2018): "Merkel, to Survive, Agrees to Border Camps for Migrants", *The New York Times*, 2 July 2018: <https://www.nytimes.com/2018/07/02/world/europe/angela-merkel-migration-coalition.html>).

¹⁸ When the model was presented, there was already a pilot centre in Bavaria, although there had been massive protests and tensions between the asylum applicants and the security forces. Until now, these types of centres have only existed in Bavaria, Saxony and Sarre.

¹⁹ KNIGHT, B. (2018): "German interior minister presents his migration master plan", *Deutsche Welle*, 10 July 2018: <https://www.dw.com/en/german-interior-minister-presents-his-migration-master-plan/a-44601059>.

²⁰ CONNOLLY, K. (2018): "German border deal: how might it work and what are the obstacles?", *The Guardian*, 3 July 2018: <https://www.theguardian.com/world/2018/jul/03/german-border-deal-how-might-it-work-and-what-are-the-obstacles>.

²¹ <https://assets.documentcloud.org/documents/5427858/Abkommen-Mit-Spanien.pdf>.

²² EFE (2018): "Alemania e Italia llegan a un acuerdo para la devolución de solicitantes de asilo", ("Germany and Italy reach an agreement to return asylum applicants"), *El Mundo*, 13 September 2018: <http://www.elmundo.es/internacional/2018/09/13/5b9a317de5fdea81438b4694.html>.

²³ MACLEAN, W. (2018): "Hungary's Orban open to bilateral migration deal with Merkel", *Reuters*, 3 July 2018: <https://www.reuters.com/article/uk-europe-migrants-hungary-germany/hungarys-orban-open-to-bilateral-migration-deal-with-merkel-idUSKBN1JT2QQ>. Orban, the Hungarian Prime Minister, was open to negotiating an agreement with Germany after approval of the Master Plan, provided one was signed before with Austria.

In this context of political change, the state of Bavaria in southern Germany is being used as a testing ground for a more restrictive reception policy towards asylum applicants compared to previous years, with a reduction in economic aid and promotion of detentions prior to returning them, in the hope that this will be an example for other regions²⁴. The protests against the measures launched by the CSU, the governing party in the state of Bavaria, have not ceased. Towards the end of July 2018, more than 30,000 people gathered in Munich against that state's migration control policy²⁵. The regional elections held in October changed the political panorama and opened the door to the extreme right-wing party Alternative for Germany (AfD) in the regional parliament²⁶. The regional elections in Hesse, held the same month, created a similar panorama as the neighbouring state²⁷.

Migration control is also being felt in the reinforcements of the country's borders (controls on the border with Austria are taking longer), in the support for proposals to externalize the EU's borders, and in negotiating and signing readmission agreements with different countries within and outside the European Union (Afghanistan, Algeria, Morocco and others). In return, within the European resettlement programme the German government has agreed to take in 10,200 refugees in vulnerable situations located in North Africa and the Middle East²⁸. 4,600 before the end of 2018 and the remaining 5,600 over 2019²⁹.

The attempts at migration control and dissuasion have also led the Foreign Affairs Ministry to set up a website to debunk the myths about life in Germany while pointing out the dangers and difficulties that migrants may have to face in the country, and thus deter them³⁰.

3. International protection and asylum procedures

The competent authority for launching the asylum procedure and deciding on applications is the **Federal Office for Migration and Refugees (BAMF)**, which answers to the Interior Ministry.

There is no maximum time limit for a decision on the asylum application, but if it takes longer than six months to examine it then the BAMF must notify the applicant of when a decision will predictably be made. According to the German government, in 2017 the asylum procedure took 7.8 months on average, a few days above the average recorded in 2016³¹. Nevertheless, the data shows that the total duration of the procedure, in other words including appeal periods, rose considerably in 2017 to 10.7 months. Apparently, this was due to the large amount of cases pending at the start of the year which were then decided upon that same year. Thanks to this, in 2017 "the refugee population increased by 45 per cent to 970,400 [...]"³². By the end of 2017, however, the number of applications pending a decision came to 68,245, a third of which were applications made in previous years³³. Although this is still a considerable number, it should be mentioned that it represents a drop of 84.3% compared

²⁴ MACGREGOR, M. (2018): "Bavaria's controversial asylum plan", *Infomigrants*, 5 June 2018: <http://www.infomigrants.net/en/post/9694/bavaria-s-controversial-asylum-plans>.

²⁵ Deutsche Welle (2018): "Germany: Thousands gather in Munich to protest Bavarian ruling party CSU", *Deutsche Welle*, 22 July 2018: <https://www.dw.com/en/germany-thousands-gather-in-munich-to-protest-bavarian-ruling-party-csu/a-44779052>.

²⁶ CARBAJOSA, A. (2018): "Los aliados de Merkel pierden la mayoría absoluta en su feudo de Baviera", ("Merkel's allies lose the absolute majority in their stronghold of Bavaria") *El País*, 15 October 2018: https://elpais.com/internacional/2018/10/14/actualidad/1539527108_202389.html.

²⁷ MÜLLER, E. (2018): "Los partidos de gobierno en Alemania se desploman en las elecciones de Hesse", ("The government's parties in Germany collapse in the elections in Hesse"), *El País*, 29 October 2018: https://elpais.com/internacional/2018/10/28/actualidad/1540745148_407949.html.

²⁸ KOCH, M. & WALLACE, C. (2018): "Germany to accept 10.200 refugees in EU plan", *Handelsblatt*, 20 April, 2018: <https://global.handelsblatt.com/politics/germany-accept-10200-refugees-eu-plan-913745>.

²⁹ Infomigrants (2018): "Families favored for resettlement to Germany", *Infomigrants*, 2 May, 2018: <http://www.infomigrants.net/en/post/9032/families-favored-for-resettlement-to-germany>.

³⁰ It is available in English, French and Arabic at: <https://rumorsaboutgermany.info/>.

³¹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 19.: <https://www.asylumineurope.org/reports/country/germany>.

³² UNHCR (2018): *Global trends: Forced displacement in 2017*, p. 17: <https://www.unhcr.org/5b27be547.pdf>.

³³ BAMF (2018): *Asylgeschäftsbericht für den Monat Dezember 2017*, p. 7: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschäftsbericht-node.html>.

to 2016, which ended with 433,719 applications pending a decision³⁴. By the end of 2018, the number of cases pending had fallen to 58,538³⁵.

In the case of asylum applicants referred to the “arrival centres”³⁶, the average duration of the procedure in 2017 was 2.3 months³⁷. The past data available shows that the duration of the procedure in the BAMF varies considerably depending on the asylum applicants’ country of origin. This may have become even more varied since 2016, when this body was given the authority to establish its own criteria for prioritising in order to tackle the situation and reduce the number of cases pending³⁸.

3.1. Types of protection

If they are granted a positive decision, people who apply for international protection in Germany can benefit from refugee status, subsidiary protection and the effects deriving from the prohibition of expulsion. The form of protection obtained gives rise to a specific kind of residence permit, which determines the rights and aid that the person is entitled to. Refugee status entails a 3-year residence permit, 1 year’s subsidiary protection and prohibition from expulsion for at least 1 year.

It should be noted that, as seen in Graph 2, subsidiary protection accounted for little more than 1% in 2015, rising to over a third in 2017. These figures are closely tied to the temporary suspension of the right to family reunification for people holding subsidiary protection (between March 2016 and August 2018) as from then on, subsidiary protection began to be granted more, in detriment to refugee status.

If the family members³⁹ of somebody who has been granted one of these types of international protection in Germany are in the country and have asked for the same kind of asylum, then they are granted the same kind of protection by extension, under the heading “family asylum”⁴⁰.

It is also important to point out that the expulsion prohibition granted by the German government guarantees that for humanitarian reasons the person cannot be returned to their country of origin⁴¹. This form of protection is granted if there is a specific, considerable danger to the person’s life, physical integrity or freedom, including reasons of health. However, this protection is not considered if the person in question has the possibility of going to another country if, for example, they have a second nationality or a residence permit in another country, where they can apply for asylum.

³⁴ Ibid, page 2.

³⁵ BAMF (2018): *Asylgeschäftsbericht für den Monat Dezember 2017*, p. 2: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

³⁶ The “arrival centres” (*ankunftszentrum*) are places located within the federal territory in whose installations the BAMF delegations work, carrying out the registration, identity checks, interviews and decisions on the applications.

³⁷ BAMF (2018): *Asylgeschäftsbericht für den Monat Dezember 2017*, p. 2: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

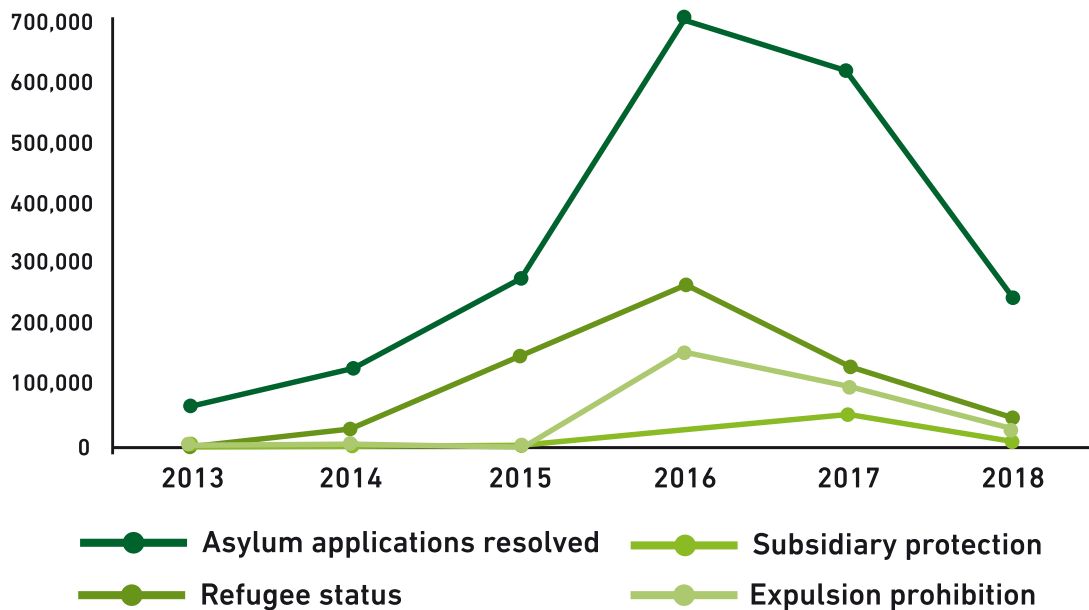
³⁸ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 19: <https://www.asylumineurope.org/reports/country/germany>.

³⁹ Spouses or registered partners and minor unmarried children. For minors: the minor’s parents, unmarried person for the purpose of their care and custody, unmarried adult who has custody of the minor, and/or the minor’s unmarried siblings (BAMF (2018): *The stages of the German asylum procedure*, p. 21: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/das-deutsche-asylverfahren.html>).

⁴⁰ Asylum Act (*Asylgesetz*): Chapter 4.3., Section 26(5): http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁴¹ This is found in Section 60 of the Residence Act (*Aufenthaltsgesetz*): <https://germanlawarchive.iuscomp.org/?p=1464>.

Graph 2. Decisions on asylum applications and types of protection granted in Germany between 2013 and 2018



Sources: BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, p. 49; BAMF (2018): *Aktuelle Zahlen zu Asyl (Dezember 2018)*, p. 11.

Furthermore, it should also be noted that there is a special permit for people who do not have the right to remain in the country but cannot be ejected for administrative reasons, such as missing documents, deportation agreements with third countries or health reasons. This is the so-called *duldung*, a concept that only exists in German legislation and which, while not granting any residence permit, does mean a temporarily “tolerated status” in Germany while deportation is not possible⁴². *Duldung*, granted by federal states for variable periods, is a way of keeping track of people who would otherwise be in the country in an irregular manner. However, the rights associated with it and the possibility of exercising them vary considerably from one federal state to another. In some, access to inclusion measures and the job market is guaranteed after participating in occupational training programmes, whereas in others the real possibilities of access to education or employment are practically non-existent since such people are not considered to be entitled to such rights. However, it is a concept that is worth taking into account within German migration policy, since it is calculated that there are about 200,000 people in Germany with a *duldung* and that approximately half of them have held this “tolerated status” for over a decade⁴³.

3.2. Access to the procedure and types of procedure

To begin the international protection procedure in Germany, the person wishing to apply for asylum must notify the authorities of this immediately upon arriving there⁴⁴. They can also communicate it in any reception centre. There is no specific asylum procedure applicable to people who apply for it on the German land borders (unlike at the air borders), though they must undergo an admissibility procedure to authorise them to enter the territory. It should be underlined that the border police can deny entry or begin deportation proceedings if the person has entered the country in an irregular way and is near the border, when they “enter from a third safe country”, or when “there are indications that

⁴² Residence Act (*Aufenthaltsgesetz*): Chapter 5.2., Section 60a: <https://germanlawarchive.iuscomp.org/?p=1464>.

⁴³ MACGREGOR, M. (2018): “Germany’s deportation dilemma”, *Infomigrants*, 24 May, 2018: <http://www.infomigrants.net/en/post/9305/germany-s-deportation-dilemma>.

⁴⁴ BAMF (2016): “Arrival and registration”: www.bamf.de/EN/Fluechtlingsschutz/AblaufAsylv/AnkunftUndRegistrierung/ankunft-und-registrierung-node.html. There is no maximum deadline stipulated by law to make the asylum application.

another country is responsible for processing the asylum application [...]", amid other reasons⁴⁵. However, if they have expressed their wish to apply for international protection, they cannot be returned until the BAMF has reviewed the case. Even so, application procedures from people who fall under the Dublin Regulation⁴⁶ are automatically considered inadmissible in Germany. Some sources point to an increase in detentions of asylum applicants at the borders in 2017 and the immediate launching of Dublin procedures to transfer them to other countries⁴⁷.

If the person is admissible into Germany, then the asylum procedure may continue within the territory. From then on, registration begins immediately, which as well as gathering data also includes taking fingerprints and a photograph, which will be made available to any national governmental agency that requires them during the asylum process⁴⁸. In some German states such as Berlin or Bavaria, the latest technology has begun to be used to identify people without documents, which includes an analysis of smart phones to trace their journey made and voice analysis software to determine people's ethnic origins⁴⁹. The registration, always carried out by the BAMF in any federal delegation or office or in the "arrival centres"⁵⁰, allows for a temporary identification document to be issued that confirms the arrival and registration of the person in question: the *ankunftsnachweis*. This document regularises their stay in the country and gives access to reception centres, maintenance and limited healthcare (medical treatment for serious pain)⁵¹. Subsequently, when the asylum application registration has been completed it is replaced by the *aufenthaltsgestattung*, a temporary residence permit issued for the time the asylum procedure takes.

After the registration process, which is completed in a few days, the asylum applicant is assigned a place in temporary accommodation⁵² according to several provisos, as we shall see further on, and the BAMF arranges a personal interview for them⁵³. During these interviews, data is again gathered to enable the person to be identified. Another photograph and fingerprints are taken. This data is compared to the data gathered in the initial registration and with police criminal records to check if this is their first application or a subsequent one. The European system Eurodac⁵⁴ is also used to determine the State responsible for processing the asylum application for the person in question, in keeping with the Dublin Regulation⁵⁵.

From then on, depending on the personal causes and the country of origin, the application is studied via the normal procedure, which includes cases related to the Dublin Regulation, or via an accelerated procedure that entered German legislation in March 2016⁵⁶. If the examination of the application leads to a rejection of protection, the asylum applicant may launch an appeal with the local administrative courts, which in exceptional cases⁵⁷, may then be taken to the High Administrative Court (regional) or the Federal Administrative Court. The appeals filed with local courts have the effect of automatically suspending the order to leave the country that is implied with the decision to deny

⁴⁵ Asylum Act (*Asylgesetz*): Chapter 4.2., Section 18: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219 (traducción propia).

⁴⁶ European Union Regulation (EU) 604/2013 of the European Parliament and Council of 26 June 2013, which establishes criteria and mechanisms for determining the member State responsible for examining the international protection application in one of the member states for a national of a third country or a stateless person (Recast Text). Official Journal of the European Union L 180, 29 June, 2013, pp. 31-53: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2013:180:FULL&from=EN>.

⁴⁷ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 17.: <https://www.asylumineurope.org/reports/country/germany>.

⁴⁸ This data is stored by the BAMF in the Central Register of Foreign Nationals (Ausländerzentralregister), which is managed by it when the asylum application has been made. The register is nationwide and stores the profiles for all foreigners that have been or are residents in Germany. The fingerprints and photographs are only taken of people older than 14 years of age.

⁴⁹ OLTERMANN, P. (2018): "Germany to roll out mass holding centres for asylum seekers", *The Guardian*, 21 May, 2018: <https://www.theguardian.com/world/2018/may/21/germany-to-roll-out-mass-holding-centres-for-asylum-seekers>; and interview with BAMF (Berlin, 27 September 2018).

⁵⁰ The "arrival centres" (*ankunftszenrum*) are places located within the federal territory in whose installations the BAMF delegations work, carrying out the registration, identity check, interview and decision on the application.

⁵¹ See point 5.1. of this report: *Healthcare*

⁵² While the registration is being carried out, they are accommodated in temporary accommodation facilities.

⁵³ This interview is obligatory for everybody over 16 years of age.

⁵⁴ European fingerprint database operational since 2003 to identify asylum applicants in an irregular situation who enter the territory of the European Union, Norway, Iceland or Switzerland

⁵⁵ If the applicant has not been registered in another country, they may proceed to apply for asylum in Germany, which must always be done in person except for specific cases related to health problems or minors. If they have been registered in another country, the application in Germany is deemed inadmissible.

⁵⁶ Asylum Act (*Asylgesetz*): Chapter 4.3., Section 30a: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁵⁷ Such cases include: when the case is of fundamental importance, when the administrative court's ruling deviates from a decision by a higher court, or when one of the parties alleges legal irregularities and they do exist (Asylum Act (*Asylgesetz*): Chapter 9, Section 17(3): http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219).

protection⁵⁸. If an asylum application is considered manifestly unfounded or inadmissible, such as in the Dublin cases, the applicant may also launch an appeal, but in such cases this will not imply the automatic suspension⁵⁹.

On the other hand, if the asylum application is made in the airport of arrival, the asylum procedure must be completed before a decision is made on the entry⁶⁰. Except for medical emergencies requiring hospital admission, whether or not the applicant has a valid entry passport they must stay in the airport facilities until their asylum application has been decided via a special accelerated procedure, as we shall see further below. This airport procedure is not applicable at land borders.

From the beginning of the procedure, in all possible cases there are interpreters to help the asylum applicants understand their rights and duties, as well as the different stages of the procedure. However, no public, free legal aid is provided for the asylum applicants, either in the normal or accelerated procedure (but it is given in the airport procedure). During the appeal stage, the applicants may sometimes get public representation and support in the courts. Non-Governmental Organisations (NGOs) cover this lack of legal aid by providing free consultancy services, although they are not available in all the facilities of the reception system.

Lastly, it should be stressed that there are no protocols to identify people with special needs. Nonetheless, the BAMF guidelines do stipulate that asylum applicants who are victims of persecution for reasons of gender, victims of torture or with trauma, or unaccompanied minors must be treated with sensitivity and if necessary by officers with specific training⁶¹.

3.2.1. Normal procedure

Except in specific cases, the normal procedure is generally applied in studying all asylum applications in Germany, although within this there are also fast-track and prioritised channels. These channels, which must not be confused with the accelerated procedure, were introduced in December 2015⁶² in order to streamline the asylum procedure for the many applications that were received that year (476,649). To apply them, “arrival centres” were set up where the entire asylum procedure is carried out (except for the appeal stage, if applicable). This is possible because each of them has a BAMF delegation specialising in all stages of the procedure.

Since the creation of the “arrival centres” in Berlin, when a person expresses a wish to apply for asylum to the competent authorities, they are immediately sent to the nearest centre, where they are given temporary accommodation while the registration is carried out and the asylum procedure begins. Subsequently, they may be sent to other reception centres for accommodation if there are insufficient places where they are⁶³. Within the “arrival centres”, there is a prioritised channel called “direct procedure”, which is applicable in cases where it is believed there are clear indications for granting or rejecting protection, which is very much related to nationality⁶⁴. This channel, which is only applied in the state of Berlin, is designed to decide on an application within four days (Figure 1 sums up its stages), though scarcely a third of the cases are decided within that time⁶⁵.

⁵⁸ An appeal in higher administrative courts against the decision by these courts, on the other hand, does not have the effect of automatic suspension.

⁵⁹ The suspension may be requested together with the appeal, but whether or not it is granted depends on the assessment by the administrative courts. See Annex I: *The asylum procedure in Germany*.

⁶⁰ Asylum Act (*Asylgesetz*): Chapter 4.2., Section 18a: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁶¹ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 45: <https://www.asylumineurope.org/reports/country/germany>.

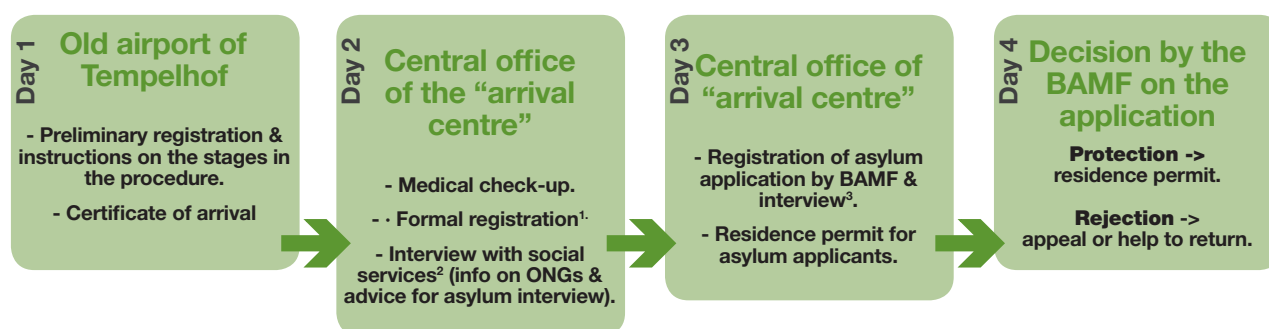
⁶² This is an operational improvement not introduced into law (<http://dipbt.bundestag.de/doc/btd/19/016/1901631.pdf>).

⁶³ See point 4.1. of this report: *Accommodation and benefits*.

⁶⁴ Between September 2016 and March 2017, there were 21.3% of the asylum applications made in Berlin classified as eligible for the “direct procedure” (ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 21: <https://www.asylumineurope.org/reports/country/germany>).

⁶⁵ Interview with BAMF (Berlin, 27 September, 2018).

Figure 1. “Direct procedure” channel in Berlin



Source: The author using ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 20-21.

¹ Includes identity controls and possible confiscation of documents and mobile phone.

² Referral to specialised accommodation if they are detected to be a person with special needs (lone women, people with functional diversity or illnesses, unaccompanied children, LGBT people, etc.) and notification to the BAMF for the asylum interview to be carried out by a “special official”.

³ The asylum interview is carried out with an interpreter hired by the BAMF. There is no free, public legal aid during the stages of registration, formalisation and examination of the application.

For cases in which the “direct procedure” cannot be applied (which normally require a broader examination, consultation with a special officer or more time due to the applicant’s health problems), or cases of unaccompanied minors⁶⁶ or people to whom the Dublin Regulation must be applied, they are processed via the normal procedure with no priorities⁶⁷.

The normal procedure involves an in-person interview carried out by the BAMF staff and always in the presence of an interpreter, guaranteed by law⁶⁸. In 2017, in a joint report the main German NGOs working in the sphere of migration and asylum pointed out the considerable deterioration in the quality of the asylum procedure in the country, largely due to the hiring of new workers in the BAMF without suitable training⁶⁹. As a result of this, the office was obliged to review its recruitment processes and launched specific training courses for interpreting in asylum interviews, as well as raising the requirements for hiring translators and interpreters⁷⁰. It should be made clear that translation to German is a very delicate point in the procedure, because no recorded copy of the interview is stored. The only record kept of it is a non-literal transcription in German, which must be signed by the asylum applicant. Although this is orally translated to the applicant before ending the session in order to amend mistakes or make clarifications, the translator may make the same mistakes in translation that they may have made during the interview, so that it is practically impossible to detect misunderstandings or poorly translated information. On occasions, this may lead to subsequent problems about the credibility of the story, which may have serious consequences for the asylum applicants.

It is also important to mention that the applicants often do not have access to consultancy services by lawyers or NGO staff before the asylum interview. The law does not guarantee public, free legal aid for asylum applicants during the international protection procedure, except in the special airport procedure in all of its phases, or in the appeal period in any procedure, if applicable⁷¹, during which it is possible to get support and legal representation in the courts, albeit with difficulty. Free legal aid services are only offered by some NGOs, but they are not available in all of the reception centres nor during all of the procedure⁷². Furthermore, they are not authorised to legally represent their clients during

⁶⁶ Before beginning an international protection application, the minor undergoes tests to determine their age by a local youth welfare office, which is responsible for their reception (See Section 4.1.1 of this report: *Unaccompanied children*).

⁶⁷ Until 2017, the way the cases were studied was organised through a grouping method depending on the expectations about them: “cases of nationals from countries with a high level of protection”, “cases of nationals from countries with a low level of protection” and “complex cases”. Currently, it is the “arrival centres” that decide on the prioritisation (and level) of the cases according to their processing capacities: availability of staff with the necessary experience in the different countries and availability of interpreters.

⁶⁸ Asylum Act (*Asylgesetz*): Chapter 4.1., Section 17: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁶⁹ *Memorandum für faire und sorgfältige asylverfahren in deutschland*: <https://www.proasyl.de/wp-content/uploads/2015/12/Memorandum-für-faire-und-sorgfältige-Asylverfahren-in-Deutschland-2016.pdf>.

⁷⁰ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, ps. 22-23: <https://www.asylumineurope.org/reports/country/germany>.

⁷¹ Including appeals from people to whom the Dublin Regulation is applied, although for these people the possibility of legal aid being granted is even more remote, given the procedure’s time restrictions and difficulties to lay the foundations for the potential success of the appeal.

⁷² ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 26: <https://www.asylumineurope.org/reports/country/germany>.

the asylum procedure. Therefore, in the first instance, meaning while the application is being examined by the BAMF, the applicants must pay for a lawyer if they wish to be legally represented during the procedure.

If the BAMF's decision on the international protection application is negative, the applicant may lodge an appeal with the local administrative court with authority in their area of residence. There are two possible types of appeal depending on the reasons. Firstly, if the application has been rejected by the BAMF on considering it manifestly unfounded or inadmissible, then the applicant has one week to lodge an appeal, which does not imply automatic suspension of the expulsion order. The suspension can be requested, also within seven days, duly reasoned, though it is only granted in exceptional circumstances (even so, it is guaranteed as of when it is requested until the court rules on the matter). The reasons that may give rise to the asylum application being considered inadmissible or manifestly unfounded are shown in Table 2.

Table 2. Situations in which an asylum application is ruled inadmissible or manifestly unfounded

An asylum application is deemed inadmissible when...
another country is responsible for studying the application, according to the Dublin Regulation and other regulations on the matter.
the person is considered to have a third safe country (through which they have travelled) prepared to re-admit them.
it is a subsequent application.
or the person...
has been granted international protection in another EU member State ⁷³ .
An asylum application is considered manifestly unfounded when...
it contains contradictory statements that do not correspond to the real situation, or based on false evidence.
it has been made to avoid imminent expiry of a residence permit, the person having had time to make the asylum application before.
it has been made on behalf of another person without the legal capacity in keeping with the law or following an asylum application made by the parents or the person with custody of a minor, rejected as a final ruling.
or the person...
has counterfeited their identity or nationality, or refuses to state them.
has made another application using different personal information.
has failed to meet their obligation to cooperate, unless they have not been responsible for the lack of cooperation or there are reasons why they were hindered from doing so.
has been forcibly ejected.

Source: Asylum Act (*Asylgesetz*): Chapter 4.3., Sections 29 and 30.

On the other hand, if after examining the application in depth the protection is denied, the person has 15 days to lodge an appeal, with the effect of automatic suspension. The reasons and evidence to substantiate the appeal may be provided later (even though the law lays down a maximum of one month, in practice they are accepted even on the same day of the hearing⁷⁴).

It is important to underline the short deadlines to file the appeal, especially for applications ruled manifestly unfounded or inadmissible. In one or two weeks it is very difficult to find a lawyer and have enough time to prepare the appeal. In this case, the asylum applicant may request legal aid to pay for a lawyer, but whether or not this is granted depends on the assessment the courts make of the appeal's possibilities of success. However, the judge that makes said assessment is also the one who must later decide on the case, so that some lawyers believe that an unhelpful

⁷³ During 2017 a total of 8,120 applications were rejected as inadmissible because the applicants had international protection recognised in other EU member States. However, it should be noted that appeals were lodged against some of these cases and the courts decided that the people concerned had the right to a new procedure in Germany because the country in which they had been previously granted protection (Bulgaria) had differences in the asylum system and there were risks that the people could face degrading living conditions (ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 36: <https://www.asylumineurope.org/reports/country/germany>).

⁷⁴ TECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 24: <https://www.asylumineurope.org/reports/country/germany>.

assessment by the judge may later have a negative influence on the decision on the appeal⁷⁵. Nevertheless, legal representation is not compulsory in the administrative courts, though it is recommended by the BAMF.

In 2017, the average duration for an appeal was 7.8 months, a few days above the average recorded in 2016⁷⁶. Even so, it must be taken into account that nearly half of the cases (45%) were closed without an in-depth examination of them or a hearing in the courts, as in the cases of appeals abandoned by the asylum applicants or those where there was an agreement between the applicant and the BAMF⁷⁷. It can therefore be deduced that the duration of the appeal, when it goes ahead and there is an examination of the case, is greater than the one indicated. At the end of 2017, the number of appeals pending processing in the administrative courts came to 361,059, more than triple the appeals pending at the end of 2016⁷⁸.

A favourable ruling in the administrative courts obliges the authorities to grant international protection to the person in question or to declare a prohibition on their expulsion. This is usually the final decision in the asylum procedure when protection is denied. Only in very exceptional cases can appeals be escalated to the High Administrative Courts, the highest level within each federal state, within one month. An appeal may be made against the latter's decision in the Federal Administrative Court for reasons solely related to the correct application of the law. Neither an appeal to this court nor the previous ones has the effect of automatic suspension, though it can be requested. Outside the administrative judicial system, there is the possibility of filing a constitutional complaint with the Federal Constitutional Court in cases where basic constitutional rights have been violated, such as with political asylum or the right to a hearing in accordance with the law, without the effect of suspending the expulsion order.

3.2.2. Accelerated procedure

The accelerated procedure has been part of German legislation since March 2016. It can be carried out only in the "special reception centres" (different from the "arrival centres") designed for this reason. At the end of December 2017, there were only two "special reception centres" in the country, in the state of Bavaria, specifically in Bamberg and Manching/Ingolstadt, both with ordinary places and special places for asylum applicants under this procedure. Although the "special reception centres" are not enclosed centres, the asylum applicants are obliged to stay in them throughout the process, with freedom of movement only in the city or district. If the applicant does not observe this imposed residence or abandons the city or district where the centre is located, it is assumed they have abandoned the international protection application and the case is deemed terminated.

There are seven cases in which an asylum application may be processed by this procedure, when the applicant⁷⁹:

- Is a national of a safe country of origin.
- Has provided fake identity or nationality documents or has not submitted relevant information about themselves.
- In bad faith has destroyed or hidden identity or travel documents that may have helped establish their identity or nationality, or the circumstances give clear reasons to think so.
- Has made a subsequent application.
- Has made the application to delay or avoid a decision soon or imminently leading to their expulsion.
- Refuses to give fingerprints in keeping with the Eurodac regulations.
- Has previously been ejected for reasons of public order or security or there are serious reasons to think that they pose a threat to them.

The time that the BAMF has to take a decision on the applications examined via the accelerated procedure is seven

⁷⁵ Idem.

⁷⁶ Idem

⁷⁷ Idem

⁷⁸ Idem

⁷⁹ Asylum Act (*Asylgesetz*): Chapter 4.3., Section 30a: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

days. If it cannot be finished in this time, the application is rerouted through the normal procedure⁸⁰. Only in this case, or if the application is rejected as it is considered unfounded or some type of protection is granted, may the asylum applicants leave the centres⁸¹. Faced with a negative decision from the BAMF, the conditions for lodging an appeal are similar to those for applications examined via the normal procedure.

The concepts of “safe country of origin” and “safe third country” are found in the German Constitution (*Grundgesetz*)⁸² and implemented in the Asylum Act (*Asylgesetz*)⁸³. Germany has a list, adopted by both houses of the parliament, of “safe countries of origin”: countries in which there is deemed to be no risk of persecution. The list currently has eight countries: Albania, Bosnia-Herzegovina, Ghana, Kosovo, Macedonia, Montenegro, Senegal and Serbia⁸⁴. If the circumstances of any of these countries changes, the Federal Government can pass a decree to no longer consider the country in question safe and withdraw it from the list for six months⁸⁵. In 2018, the German Parliament twice debated the inclusion of Georgia and North African countries (Morocco, Tunisia and Algeria) in the list of safe countries, without finally reaching agreement, given the need to have approval from the federal states.

When the accelerated procedure cannot be followed due to a lack of “special reception centres” in the region where the person to whom it could be applied is, their asylum application is considered manifestly unfounded unless it is accompanied by facts and evidence that prove their persecution in the “safe country” where they come from. Asylum applications from nationals from countries in the list, however, have fallen drastically since 2015 from a total of 146,398 down to 49,165 in 2016 and 21,845 in 2017⁸⁶.

On the other hand, European Union member States are by definition considered to be safe third countries, together with Norway and Switzerland, which make up the list of “safe third countries”. This consideration has greater impact at the land borders, since the German border police can deny entry to people if they arrive in Germany from a safe third country⁸⁷, which is always the case given the country’s geographical location. In addition, they can return the person in question immediately to said country if they do not have valid documents to enter Germany. With the reform of 2016, the Asylum Act has recently included the concept of “first country of asylum”, without being defined as such, which indicates that an international protection application from a person who is already in another safe country before arriving in Germany, where they do not face any persecution, must be considered inadmissible⁸⁸. Nevertheless, this provision was applied on very few occasions in the second half of 2016. There is no data available for 2017⁸⁹.

Some of the reasons leading to the accelerated process being set in motion, as we can see, are the same that give rise to an application being considered manifestly unfounded or inadmissible. In the event that an application is considered manifestly unfounded or inadmissible in the first seven days after its registration by the BAMF, then the application is channelled via this procedure, which means that the person is taken to a “special reception centre” if possible until the procedure is over (including appeal periods if applicable), and that some specific conditions and deadlines are applied to it in the possible successive stages of the procedure: appeal period, order to abandon the territory and eventual expulsion.

There is no data about the use of the accelerated procedure in Germany because the BAMF does not gather statistics

⁸⁰ Ibid, Chapter 4.3., Section 30a (2).

⁸¹ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 41: <https://www.asylumineurope.org/reports/country/germany>.

⁸² Constitution for the German Federal Republic (*Grundgesetz*): Artículo 16a(2)-(3): http://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0088

⁸³ Asylum Act (*Asylgesetz*): Chapter 4.3., Section 26a: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁸⁴ BAMF (2016): “Safe countries of origin”: <http://www.bamf.de/EN/Fluechtlingschutz/Sonderverfahren/SichereHerkunftsstaaten/sichere-herkunftsstaaten-node.html>

⁸⁵ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 50: <https://www.asylumineurope.org/reports/country/germany>.

⁸⁶ Ibid, page 51.

⁸⁷ Asylum Act (*Asylgesetz*): Chapter 4.2., Section 18(2): http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁸⁸ Safety is presumed for the person in the other country when they hold a travel document issued by it or have resided there for more than three months feeling free of persecution (Asylum Act (*Asylgesetz*): Chapter 4.3., Section 27: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219).

⁸⁹ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 52: <https://www.asylumineurope.org/reports/country/germany>.

in this regard. However, taking into account that at the end of January 2018 the Bamberg unit (one of two existing in the entire country) housed 1,112 asylum applicants in regular places and only 262 in special places, it can be concluded that the percentage of applications processed by the accelerated procedure in Germany is negligible.

3.2.3. Special procedure at the air border

In Germany, there is no specific procedure applicable to the land borders. However, we must not forget to consider the provisions concerning the entry of nationals from “safe countries of origin”, from “safe third countries” or “first countries of asylum”, especially when said persons do not have valid documents to enter German territory, since they may be denied entry, deported, or in the best of cases their application may be rejected prior to processing as manifestly unfounded or inadmissible.

Nevertheless, in the case of arrival to Germany across the air border, a special asylum procedure defined by law⁹⁰ is applied. This establishes that when any national from a “safe country of origin” arrives via an airport and requests international protection from the border authority, the BAMF must operate under the principle of immediacy and terminate the asylum procedure within two days before a decision takes place about their entry into Germany. The person is then accommodated in specific facilities located in the airport’s transit area⁹¹ unless they require admission to a hospital. They are allowed entry into the territory, on the other hand, if the BAMF notifies the border authorities that it cannot decide on the case in a short time, if it has not taken a decision on the application within two days of it being submitted, or if the border authorities have not requested detention of the person, or else if the judge has refused to order it or extend it⁹². In these cases, the asylum application goes on to be examined via the normal procedure.

The number of international protection applications examined via this airport procedure in 2017 came to 444 (the vast majority in the airport of Frankfurt), meaning 0.2% of the total of asylum applications made in Germany that year⁹³. Normally, it is applied to asylum applicants who do not have valid documents to enter the country and to nationals from “safe origin countries”. Although the law does not exclude unaccompanied children from this procedure, in practice it is not applied to them⁹⁴.

The interview held by the BAMF is carried out with the same criteria as with the normal procedure, in the presence of an interpreter. It should be noted that this procedure is unique in Germany in that the asylum applicants have the right to free public legal aid, but not legal representation⁹⁵. The aid can be provided by any person or institution with adequate training in asylum law⁹⁶. The lawyers’ bar in the region of the airport coordinates the public consultancy services with qualified lawyers. The border police are responsible for getting the asylum applicants in touch with the lawyers when they express a desire to be interviewed, although the short times involved in this procedure make it complicated to effectively access a lawyer. Moreover, although the lawyer may draw up a petition for the administrative courts, representation in them is not part of the free aid.

If the procedure at the airport results in rejection of protection, the person may be authorised to enter the country to submit an appeal. However, this step seems to be irrelevant in practice, since most cases are authorised entry into Germany to redirect the asylum application via the normal procedure on not being able to meet the deadline of two days for a decision on the case by the BAMF. If, on the other hand, the application is rejected on being deemed manifestly unfounded, entry into the territory is denied and the applicant is informed that they will be ejected if they enter the country. This person, however, may make a request for “temporary protection” (specifically for this

⁹⁰ Asylum Act (*Asylgesetz*): Chapter 4.2., Section 18a: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁹¹ These accommodation facilities exist in the airports of Berlin, Düsseldorf, Frankfurt/Main, Hamburg and Munich.

⁹² Asylum Act (*Asylgesetz*): Chapter 4.2., Section 18a: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁹³ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 38: <https://www.asylumineurope.org/reports/country/germany>.

⁹⁴ *Idem*.

⁹⁵ Although it is not to be found in the Asylum Act, it is the result of jurisprudence from the Federal Constitutional Court.

⁹⁶ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 40: <https://www.asylumineurope.org/reports/country/germany>.

procedure) within three days as of notification of the rejection, which would allow for entry into German territory to apply for a cautionary measure against expulsion and to stay there until the courts rule, with the expulsion temporarily suspended⁹⁷. Entry into the country must also be authorised if the administrative court with authority to grant this legal status has not taken a decision within two weeks, so the maximum potential period for the airport procedure may last up to 19 days. Meanwhile, the applicants must stay in the enclosed units designed for this in the airport transit zone.

Some NGOs such as Pro Asyl⁹⁸, AWOs⁹⁹, Amnesty International¹⁰⁰, Caritas¹⁰¹ o *Diakonie*¹⁰², and others have questioned the BAMF's ability to take decisions in the airport procedure when they have to be taken within two days. The subsequent review of some cases has shown how people coming from Afghanistan have had their international protection application rejected as manifestly unfounded¹⁰³. The BAMF's treatment of asylum applicants from people of Afghan origin is particularly striking: many of these applications were closed in 2015 and 2016, when priority was given to the examination of applications from people from other countries of origin, and they began to be resolved at the end of 2016 and 2017, giving rise to a high number of protection statuses being denied in a short time. As a result, the number of appeals rose exponentially, but the rate of protection fell from 77.6% in 2015 to 60.5% in 2016 and 47.4% in 2017¹⁰⁴. The controversies appeared particularly with lone men, since the BAMF considers that young men in good health and who can work could find internal protection in the provinces of Bamyan and Panjshir, or in big cities like Kabul, Herat and Mazar-e Sharif¹⁰⁵. Therefore, the specific causes and circumstances of each individual are not examined in depth, with the result that many of the appeals submitted after protection is rejected by the BAMF end up being found in favour of protection for the applicant.

3.3. Asylum applicants to whom the Dublin Regulation is applied

The 2013 European Regulation commonly known as the Dublin Regulation¹⁰⁶ states that foreign people who wish to benefit from international protection in the European Union, Iceland, Norway, Switzerland and Liechtenstein must apply for it in the first country they enter, since it stipulates that this is the State responsible for processing the application. In the European context, the so-called "Dubliners" are people who attempt to apply for asylum in a country other than that through which they have arrived, in which they have been registered, in which they have an asylum procedure open or in which they have been given or denied some sort of international protection. The Eurodac database enables identification of the country in which these people have been registered and helps identify the State responsible for the asylum application, where the person in question must be transferred to. However, the constant, growing presence of people to whom the Dublin Regulation would be applicable in EU member and associated States indicates the failure of these agreements and presents a great challenge in adequately managing and processing these people's international protection applications with guarantees.

Identification of "Dubliners" in Germany and requests by the German authorities to transfer them to the competent authorities in the State responsible for the application have almost doubled since 2013 (Graph 3 shows this pattern). In 2018, the number of applications classified as Dublin cases came to 29,751 (13.7% of all applications recorded)¹⁰⁷.

⁹⁷ Asylum Act (*Asylgesetz*): Chapter 4.2., Section 18a: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

⁹⁸ Pro Asyl: <https://www.proasyl.de/>.

⁹⁹ AWO: <https://www.awo.org/>.

¹⁰⁰ Amnesty International: <https://www.amnesty.de/>.

¹⁰¹ Caritas Deutschland: <https://www.caritas.de/startseite>.

¹⁰² Diakonie Deutschland: <https://www.diakonie.de/>.

¹⁰³ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 39: <https://www.asylumineurope.org/reports/country/germany>.

¹⁰⁴ *Ibid*, page 58.

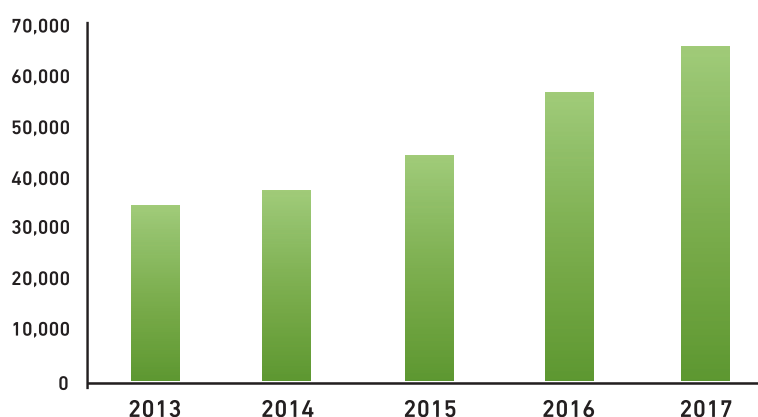
¹⁰⁵ *Idem*.

¹⁰⁶ European Union Regulation (EU) 604/2013 of the European Parliament and Council of 26 June 2013, which establishes the criteria and mechanisms for determining the member State responsible for examining the international protection application in one of the member States for a national of a third country or a stateless person (Recast Text). Official Journal of the European Union L 180, 29 June 2013: <https://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=OJ:L:2013:180:FULL&from=ES>.

¹⁰⁷ BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 8: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

This number grew during 2017 to 39,967¹⁰⁸, of which only 11% were transferred, and the average duration for the procedure was 2.2 months¹⁰⁹. The main countries to which transfer was requested in 2017 were Italy, with the most, followed by France and Hungary¹¹⁰.

Graph 3. Number of requests for transfer from Germany to other States from 2013 to 2017



Source: ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 27.

However, requests for transfer do not always lead to effective transfers in most cases for different reasons such as rejection or lack of reply from the responsible country's authorities, exceeding the stipulated deadline of six months for the transfer¹¹¹, the asylum applicant absconding¹¹² or humanitarian or sovereignty clauses being enforced. In addition, the BAMF has to ensure effective individual guarantees for protection and decent accommodation for all people who are transferred, without which the transfer may be cancelled. This was the case for some asylum applicants who should have been transferred to Hungary, to which country there have been no transfers since April 2017, or to Greece, where there were no transfers throughout 2017, though they began again in February 2018¹¹³. There have also been numerous cases of suspended transfers to Bulgaria and Italy. In fact, administrative courts sometimes cancel transfers based on the person's individual circumstances, such as their state of health and lack of available medical treatment in the State responsible, or the fact that they represent a single-parent family for whom, depending on the courts' consideration, there are not sufficient resources in the countries with authority for their protection in order to immediately guarantee their accommodation, food and health facilities¹¹⁴.

It should not be forgotten that in Germany the asylum applications from people subject to the Dublin Regulation are automatically considered inadmissible, though an appeal can be made against this decision through the administrative courts¹¹⁵. When the BAMF notifies of the inadmissibility of the case because it is determined that another country is responsible for the application, then the applicant can be detained and deprived of freedom

¹⁰⁸ BAMF (2018): *Asylgeschäftsbericht für den Monat Dezember 2017*, p. 8: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

¹⁰⁹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, ps. 27 y 31: <https://www.asylumineurope.org/reports/country/germany>.

¹¹⁰ Ibid, page 27.

¹¹¹ In mid-2017, the Court of Justice of the European Union ruled that the period of transfer for an asylum applicant under the Dublin Regulation to the State responsible for the application begins when the person expresses their wish to apply for asylum. If the handling of the transfer exceeds the time limit stipulated for it, then the State where the asylum applicant is becomes the one responsible (ECRE (Ed.) (2018): (ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 29: <https://www.asylumineurope.org/reports/country/germany>).

¹¹² The German border police, responsible for the transfer procedures, can request a detention order from the courts with deprivation of freedom if it considers there is a risk of the asylum applicant subject to the transfer process absconding.

¹¹³ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 30: <https://www.asylumineurope.org/reports/country/germany>.

¹¹⁴ Ibid, p. 34; Deutsche Welle (2018): "Germany: Increasing number of second asylum applications", *Infomigrants*, 9 April, 2018: <http://www.infomigrants.net/en/post/8533/germany-increasing-number-of-second-asylum-applications>.

¹¹⁵ In practice, this led to a curious incident in 2017. That year, the number of asylum applicants registered and refugees with their status recognised in a country other than Germany more than doubled from the previous year (8,210 from 2,997 in 2016). Given that the asylum application falls under the Dublin Regulation and is thus deemed inadmissible in Germany, many of these people appealed against the transfer order, thereby avoiding their deportation to another country (*Deutsche Welle* (2018): "Germany: Increasing number of second asylum applications", *Infomigrants*, 9 April, 2018: <http://www.infomigrants.net/en/post/8533/germany-increasing-number-of-second-asylum-applications>).

under consideration of the risk of absconding¹¹⁶. Although the asylum applicants to whom the Dublin Regulation is applied have access to the reception system until the transfer takes place, in cases where the person does not lodge an appeal against the BAMF's decision of inadmissibility or in the second instance there are not considered to be sufficient reasons for them not to be transferred to the State responsible for studying their application, but they have not been detained and the transfer is not carried out, then the person may end up living on the street.

Faced with this, it should be noted that in some German cities such as Gaustadt (Bavaria), members of religious congregations and dioceses have been accommodating "Dubliner" asylum applicants in churches for the six months stipulated for the transfer, so that after that time Germany must be responsible for the applicant's protection¹¹⁷. Given the high number of cases, the Interior Ministry has stated its intention to begin to extend the period to 18 months, which is allowed by the regulation in the event of the person absconding (Article 29.2), if this phenomenon continues. Even so, in 2018 it seems the transfers increased (in the second quarter of the year, there were a total of 2,422). In fact, group transfers on charter flights tripled over the previous year: from January to July, 458 asylum applicants were transferred on those flights, with over half (250 on 12 flights) to Italy¹¹⁸. In November, the transfers exceeded 8,600, a record number for Germany¹¹⁹.

In the other direction, the number of transfer requests from other countries to Germany in 2017 came to 26,931, of which 32% were effectively carried out¹²⁰. It is worth noting that the number of transfers from other States to Germany saw a sharp drop from 12,901 transfers made in 2016 to 8,754 in 2017, partly due to the drop in transfers from Sweden, the Netherlands and Switzerland¹²¹. Once in Germany, there have not been problems registered by the "Dubliner" applicants sent back to the country to enter the international protection procedure.

3.3.1. People relocated in Germany

In July and September 2015, the European Council adopted various commitments to reception with the aim of supporting Greece and Italy in the matter of international protection¹²². These binding commitments were an attempt to share responsibility for these people by relocating a percentage of them in the different member States and associates of the EU for two years¹²³. Germany was assigned more than 18,600 relocations¹²⁴. One year after the agreement, Germany began to commit to 1,000 monthly places for relocated people (500 for people from Italy and 500 for people from Greece). This agreement remained throughout 2017. The German government expected to meet the number of relocations assigned at the beginning of 2018. However, by February, with the programme already considered to be over¹²⁵, the total number of relocated people in the country came to 10,279¹²⁶. Of these, those from Greece came to 5,371, meaning 41.2% of the number allocated; while those from Italy came to 4,908, exceeding the number of

¹¹⁶ Residence Act (*Aufenthaltsgesetz*): Chapter 1, Section 2 (15): <https://germanlawarchive.iuscomp.org/?p=1464>.

¹¹⁷ CARBAJOSA, A. (2018): "La xenofobia en Alemania se topa con la Iglesia" ("Xenophobia in Germany comes up against the Church"), *El País*, 1 October, 2018: https://elpais.com/internacional/2018/09/28/actualidad/1538144427_324917.html; DAMBACH, K. (2018): "Church asylum in Germany", *Infomigrants*, 22 March, 2018: <https://www.infomigrants.net/en/post/8049/church-asylum-in-germany>; SU, A. (2017): "As German police attempt to deport refugees, hundreds of churches are trying to shelter them", *The Washington Post*, 6 September, 2017: <http://cort.as/-EiLo>.

¹¹⁸ In 2016 there were 153 people on seven charter flights, compared to 26 people on to those flights in 2015 (*Zeit Online* (2018): <https://www.zeit.de/politik/deutschland/2018-10/asylbewerber-sammelabschiebung-eu-staaten-italien-dublin>).

¹¹⁹ PLANAS, C. (2019): "Alemania devuelve a Europa más refugiados que nunca", ("Germany departs more refugees than ever to Europe"), *El Periódico*, 21 January, 2019: <https://www.elperiodico.com/es/internacional/20190121/alemania-devuelve-europa-mas-refugiados-nunca-7258424>.

¹²⁰ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 27: <https://www.asylumineurope.org/reports/country/germany>.

¹²¹ Idem.

¹²² Council of the European Union (2015): "Relocation of 40 000 refugees from Greece and Italy agreed by Council": <https://www.consilium.europa.eu/en/press/press-releases/2015/09/14/jha-relocation-refugees/>.

¹²³ Council document 11130/15 "Conclusions of the Representatives of the Governments of the Member States meeting within the Council on resettling through multilateral and national schemes 20,000 persons in clear need of international protection", of 22 July, 2015: <http://data.consilium.europa.eu/doc/document/ST-11130-2015-INIT/en/pdf>; European Union. Council Decision (EU) 2015/1601 of 22 September 2015, establishing provisional measures in the area of international protection for the benefit of Italy and Greece, Official Journal of the European Union L 240/80, 24 September 2015: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D1601&from=EN>.

¹²⁴ Idem.

¹²⁵ RT (2018): "Germany no longer taking in asylum seekers from Italy & Greece - report", *RT News*, 29 January 2018: <https://www.rt.com/news/417264-germany-asylum-no-more/>.

¹²⁶ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 53: <https://www.asylumineurope.org/reports/country/germany>.

relocations agreed to with that country by reaching 121.8%¹²⁷ It should be noted that Germany rejected requests for relocation from both Greece and Italy based on individual causes such as security reasons, early or polygamous marriages, a lack of sufficient evidence of the stated nationality, and others.

At the beginning of 2018, the duration of the relocation process as of when the asylum applicant candidate was notified of it until their arrival in Germany took on average between two and a half months and three months¹²⁸. The relocated applicants, whether coming from Greece or from Italy, arrived at the airport in Munich, from where they were taken to a waiting room in Erding, near the airport, for registration and the medical examination. From there, where they could be up to a maximum of 72 hours, they were transferred to reception centres in the different federal states of Germany in keeping with the existing distribution quota¹²⁹. People with special needs and unaccompanied children with relatives in the country were transferred directly to the corresponding federal state without passing through Erding. The unaccompanied children were in the custody of the local juvenile welfare office for the place where their relatives were.

3.4. Subsequent asylum applications

When somebody makes a subsequent asylum application, in other words a new application for asylum after another previously given a negative decision by Germany or abandoned by the applicant, the BAMF carries out a preliminary examination of the application's admissibility. Arising from that, a new procedure can only begin when the legal or material situation has changed substantively in favour of the applicant, or the latter provides clarifying evidence about their case, or else there are reasons to justify reopening the procedure such as serious mistakes detected in the previous one¹³⁰. The procedure is the same for third or even later applications: if the BAMF considers the application admissible, it is usually examined by the normal procedure and the person obtains asylum applicant status again. In the preliminary period during which the subsequent application's admissibility is being examined, on the other hand, the person does not have the legal status of asylum applicant even though in practice a "tolerance period" is given (though not regulated by law) until the BAMF rules on the admissibility¹³¹. Nevertheless, from the moment when the BAMF informs the person of the non-admissibility of their application, expulsion may be carried out. Indeed, the authorities may detain the asylum applicant when there is an expulsion order until the BAMF decides on the subsequent application's admissibility.

During 2018, a total of 23,922 people made subsequent asylum applications, meaning 1.8% fewer than 2017¹³². In 2017, there were 54.6% deemed admissible. Of these, 5,358 applications (13.6%) of the total examined in the year were given a positive decision: 1,995 were granted refugee status, 1,521 were granted subsidiary protection, and 1,842 were given expulsion prohibitions¹³³.

4. The reception system

People who enter the asylum procedure in Germany also have access to a decentralised national reception system in which they are given accommodation, maintenance and limited health insurance for as long as the asylum procedure lasts¹³⁴. All of these services are regulated in the *Asylbewerberleistungsgesetz* or Asylum Applicants'

¹²⁷ Idem

¹²⁸ Idem

¹²⁹ See point 4.1 of this report: *Accommodation and benefits*.

¹³⁰ In this case, the person must make a subsequent asylum application within a maximum period of three months as of when they are aware of the reasons for reopening the procedure.

¹³¹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 48: <https://www.asylumineurope.org/reports/country/germany>.

¹³² BAMF (2019): *Asylgeschäftsbericht für den Monat Dezember 2018*, p. 2: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>; BAMF (2018): *Asylgeschäftsbericht für den Monat Dezember 2017*, p. 2: <http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html>.

¹³³ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 49: <https://www.asylumineurope.org/reports/country/germany>.

¹³⁴ Including the appeal period, if applicable, except for people whose application has been rejected as manifestly unfounded or inadmissible, for whom only emergency protection is guaranteed (ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 59: <https://www.asylumineurope.org/reports/country/germany>).

Benefits Act¹³⁵. It should be noted that if the asylum applicants have financial resources, they are legally obliged to use them to pay for their stay in the country¹³⁶, though in practice it seems this provision is not applied¹³⁷.

4.1. Accommodation and benefits

The accommodation given within the German accommodation system is funded by the Federal Government, but managed and administered by the 16 federal states, and within the latter by local authorities. It is fundamentally made up of three kinds of facility:

- 1) The “arrival centres”, where the applicant is also registered and given the *ankunftsnachweis*, a document proving the person’s arrival and registration in Germany¹³⁸.
- 2) The “first reception centres”, which are centres solely for accommodation from where the person has to go to the designated BAMF delegation to be registered and make the asylum application;
- 3) The “group accommodation centres”, where the asylum applicants are accommodated after finishing the “compulsory residence” period¹³⁹. In addition to these types of centre¹⁴⁰, there is individual accommodation such as in flats. However, unlike other countries, the asylum applicants’ accommodation in individual facilities is not the most common kind in Germany. People who have been granted protection must seek accommodation in the private housing market, although they may extend their stay indefinitely in the reception centres until they find a place to live.

The large capacity “group accommodation centres” are the kind of accommodation most used in general for accommodating asylum applicants in Germany. They were introduced in the 1990s as a deterrent to contain the flow of international protection applicants. Logistical support services are given there, and interaction is encouraged with other new arrivals¹⁴¹.

When a person expresses their wish to apply for international protection, if possible they are referred to an “arrival centre” where the applicant is given comprehensive aid. Currently, they are usually admitted on the same day that they communicate their wish to apply for asylum. This is a very notable improvement on the situation in 2015 and the early months of 2016, when asylum applicants had to wait months to have access to these facilities and be able to register their applications¹⁴². Only in these centres can the “direct procedure” be started, which is the priority route within the normal procedure. Asylum applicants to whom this is applied¹⁴³ stay in the “arrival centre” for the days or weeks that the procedure lasts, as well as the asylum applicants coming from “safe countries of origin”, who must stay there throughout their procedure.

The other asylum applicants that have been registered in an “arrival centre” are assigned a place in a “first reception centre”. Designation of a place in a “first reception centre” is made through a federal distribution system known as EASY, which distributes the asylum applicants firstly among the federal states and subsequently among these to the

¹³⁵ Asylum Applicants Benefits Act (*Asylbewerberleistungsgesetz*): <https://www.gesetze-im-internet.de/asylblg/BJNR107410993.html>.

¹³⁶ Ibid, Section 7.

¹³⁷ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 59: <https://www.asylumineurope.org/reports/country/germany>.

¹³⁸ There are total of 24 “arrival centres” spread around the country’s different federal states.

¹³⁹ Compulsory stay period in the designated facilities for three months.

¹⁴⁰ There are others known as “transit centres”, which are only set up in the state of Bavaria for asylum applicants who have little expectation of obtaining protection.

¹⁴¹ SCHMID, V. y KÜCK, S. (2017): “Access to Housing in Germany”, en Korntheuer, A., Maehler, D. and P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, p. 75: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf.

¹⁴² ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 59: <https://www.asylumineurope.org/reports/country/germany>. Meanwhile, some had access to emergency reception facilities, and others had to pay for their own accommodation or ended up on the street.

¹⁴³ Those whose cases have a sufficiently clear basis to enable a decision to grant or deny protection in a matter of days.

municipalities¹⁴⁴. To do so, the number of places available in the centres is taken into account, as well as the existing BAMF delegations' competences as regards the applicant's country of origin and their specific profile, in addition to a federal system of set quotas called *Königstein key*. Through this, every year the Federal States Commission¹⁴⁵ calculates accommodation places in the country's different states according to their different situations as regards population size and economic data.

The initial period of stay in the "first reception centres" is six weeks, which may be extended to a maximum of six months¹⁴⁶. In addition to not being able to choose the place where they wish to reside, the asylum applicants who enter the procedure in Germany are also subject to geographic restrictions: they must stay in the area or district where the first reception centre is located to which they have been assigned for the time their asylum procedure lasts¹⁴⁷. In fact, they can only receive the benefits in that district and they cannot leave it without permission from the authorities. Mobility permits are usually granted when the applicant wishes to transfer to another area for a job or to continue their studies, or else for an appointment with an NGO or the United Nations High Commissioner for Refugees (UNHCR)¹⁴⁸.

The "residency obligation", for its part, is in force for three months. However, in July 2017 a legislative reform was introduced by which the federal states can impose an obligation to stay in the reception centre for up to 24 months¹⁴⁹. This power has only been put into practice in the state of Bavaria, where three first reception centres have been reconverted into open "transit centres" specifically to apply it¹⁵⁰. This provision is designed for asylum applicants who have little expectation of obtaining any kind of protection, such as those coming from "safe countries of origin" or nationals of others such as Russia, Georgia or Ukraine¹⁵¹. Thus, if the asylum application leads to a rejection of protection, then procedures for deportation or return can be initiated in these centres. One of them, in Manching/Ingolstadt, also acts as a "special reception centre" specifically for applying the accelerated procedure¹⁵². These centres have been heavily criticised for denying access to inclusion activities for the asylum applicants, like the German language or socio-employment orientation classes offered in other centres, which makes their subsequent integration process more difficult if they finally receive protection and also causes a lot of tension for the applicants, who experience great uncertainty about their near future since they are not informed about how long they are going to spend in these centres, and for the locals who have reservations about the people in them¹⁵³. The state of Bavaria also accommodates seven of the nine *anker-Zentren* ("centres for arrival, decision and return", introduced in the Master Plan of July 2018)¹⁵⁴. The two others are in the states of Saxony and Sarre¹⁵⁵.

Once the "obligatory residence" period is over, the asylum applicants must be referred to a group accommodation

¹⁴⁴ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 62: <https://www.asylumineurope.org/reports/country/germany>. It is worth noting that if the person has immediate family members in Germany and the person is not assigned an accommodation place in the federal state where the family member is during the asylum application registration stage, then they may request transfer to that state at a later time, though the decision on the change of accommodation place is then under the authority of the federal states.

¹⁴⁵ A federal commission made up of representatives from each of the country's federal states.

¹⁴⁶ This period was extended in 2015. Before that it was three months.

¹⁴⁷ Asylum Act (*Asylgesetz*): Chapter 6, Section 56: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

¹⁴⁸ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 63: <https://www.asylumineurope.org/reports/country/germany>.

¹⁴⁹ Asylum Act (*Asylgesetz*): Chapter 5, Section 47.1(b): http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219 (consultar la versión en alemán).

¹⁵⁰ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 64: <https://www.asylumineurope.org/reports/country/germany>.

¹⁵¹ *Idem*.

¹⁵² These "special reception centres" in Bavaria form part of more extensive facilities in which applicants both in the accelerated procedure and the normal procedure are accommodated. Taking this into account and that these kinds of centres only exist in this state, it may be deduced that the accelerated procedure introduced in the German asylum system in early 2016 is not only scarcely applied, but has had a marginal impact on the system as a whole.

¹⁵³ OLTERMANN, P. (2018): "Germany to roll out mass holding centres for asylum seekers", *The Guardian*, 21 May 2018: <https://www.theguardian.com/world/2018/may/21/germany-to-roll-out-mass-holding-centres-for-asylum-seekers>. The fact that migrants accommodated in these centres do not have the means of getting involved in the community and that the locals cannot enter the centres increases prejudices and suspicions about the migrants.

¹⁵⁴ Each of them has a capacity of 1,000 to 1,500 places (VALVUR, A. (2018): "Bavaria opens 'Anker' migrant transit center", *Deutsche Welle*, 1 August, 2018: <https://www.dw.com/en/bavaria-opens-anker-migrant-transit-center/g-44904578>). The decision to create these centres was a national one, via approval in July 2018 of the Master Plan presented by the Interior Minister, but those responsible for launching them are the federal states.

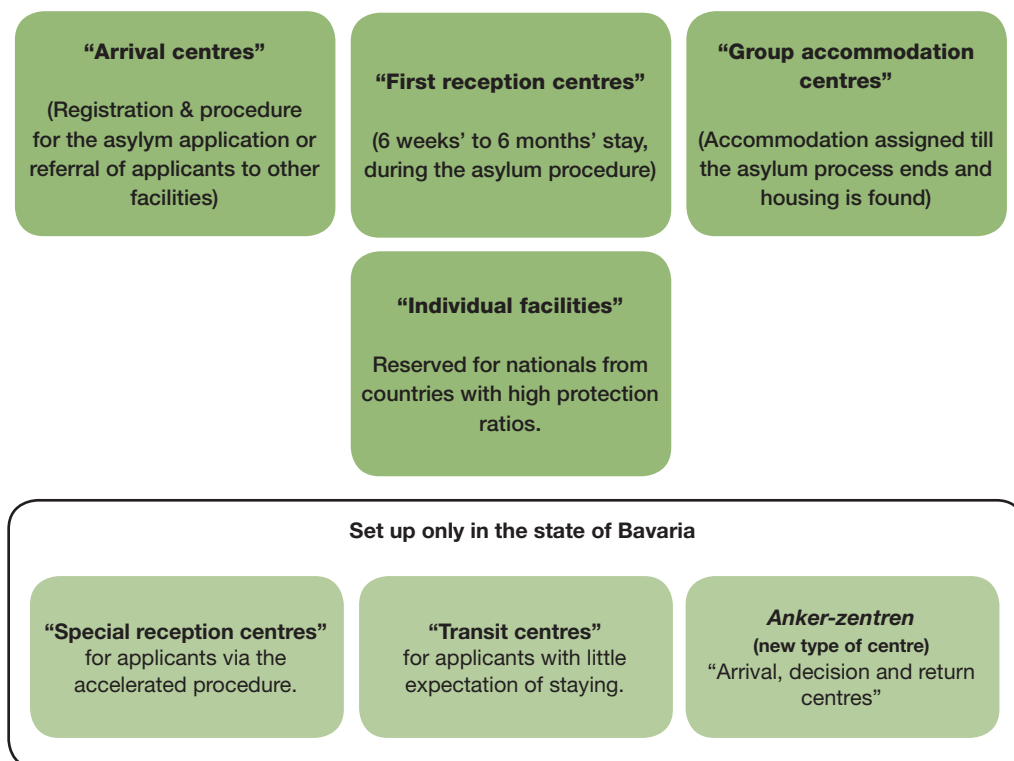
¹⁵⁵ BAAS, D. (2019): "Anker-Zentren bringen bei Abschiebungen nichts", *Migazin*, 18 February, 2019: <http://www.migazin.de/2019/02/18/forscher-anker-zentren-bringen-bei-abschiebungen-nichts/>.

centre, taking into account the interests of the general public and the applicants themselves¹⁵⁶. These centres are usually in the states and districts that the person was assigned, since the “geographic restriction” is still being applied to them. The applicant may stay in them until the procedure ends, including appeal periods, until they are “able to prove that they have found accommodation somewhere else and that this will not result in additional costs for the public authority”¹⁵⁷.

The group accommodation centres are the responsibility of the federal states, although the latter sometimes delegates this responsibility in the municipalities. The authorities responsible for them may decide in turn to pass on the management of them to local governments or transfer it to NGOs or public or private companies¹⁵⁸. There are no common standards for the regulation and conditions of accommodation in them, although the German public institutions say that there are no big differences between the centres managed by NGOs and those managed by private companies¹⁵⁹.

It should be pointed out that, taking into account the current average duration of the asylum process for the asylum applicants registered in the “arrival centres”, which is 2.3 months, many cannot be accommodated in these types of centres because their procedure ends when they are still in the first reception centre. Referral to one type of accommodation or another varies, however, depending on the federal state. In some, when the asylum procedure goes on for long, accommodation in individual facilities paid for by the applicants themselves is used more often than the group accommodation centres¹⁶⁰.

Figure 2. Reception system facilities in Germany



Source: the authors.

¹⁵⁶ Asylum Act (*Asylgesetz*): Chapter 5, Section 53: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

¹⁵⁷ Ibid, Chapter 5, Section 53(2)

¹⁵⁸ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 66: <https://www.asylumineurope.org/reports/country/germany>.

¹⁵⁹ Interview with the State Office for Refugee Affairs in Berlin (25 September, 2018).

¹⁶⁰ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 67: <https://www.asylumineurope.org/reports/country/germany>.

It is also worth mentioning the launching of emergency units which were very much used in 2015 and 2016. Due to the notable growth in arrivals of asylum applicants and refugees to the country in those years, the reception centres were over capacity and many asylum applicants could not access the first reception centres. Different places' local authorities could not find enough other kinds of accommodation such as hotels or hostels to address the needs for accommodation, so town councils began to set up different kinds of emergency facilities such as gymnasiums, public buildings prepared *ad hoc* and tents. They mostly stopped being used and were closed in 2017, although in 2018 some in the state of Berlin were still in use¹⁶¹.

Lastly, it is important to remark on the violent attacks on the reception centres and aggressions committed within the centres by the people in there. In 2017, there were officially 300 violent attacks recorded on reception centres (the statistics drawn up by the NGOs raise the number to over 1,500). This is a very considerable amount, even if it is well below the nearly 900 recorded in 2016 (1,600 according to NGOs), even without counting the 1,906 on individual asylum applicants and refugees (349 according to data from NGOs)¹⁶². Most are considered to be race-motivated crimes. There is a noteworthy case of 30 workers (civil servants, security guards and social workers) in a reception centre in Burbach, a town in the state of Northern Rhine-Westphalia, who were investigated for flagrant, systematic abuse over nine months of refugees accommodated in the centre, which was then managed by the private company European Home Care¹⁶³. The trials began at the end of 2018¹⁶⁴.

During the stay in the reception centres, the asylum applicants benefit from basic services for subsistence and a monthly monetary allocation to cover personal daily needs. In addition, people with other specific needs such as pregnant women or those who have just given birth, or people with illnesses, receive additional aid¹⁶⁵. The regional and local authorities have discretionary power to decide how the aid is provided to cover basic needs: in kind, which can be provided in the centres, or in cash¹⁶⁶. The monthly amount of money received by asylum applicants also varies depending on personal circumstances such as age or family situation, and is given via money cards topped up monthly with the allotted money. In 2018, the standard amount allotted for an adult with no family responsibilities in a centre was €135¹⁶⁷. This rose to €54 if the person was accommodated in a flat, for which the state government separately covers the rent, heating, furniture and instruments necessary for living¹⁶⁸.

German legislation does not consider situations that withdraw the accommodation and benefits that make up the reception system as a penalty measure, although they may be reduced to coverage of minimum needs (accommodation, food and other basic needs) in very specific cases. In practice, such reductions are rare. They are applied, for example, to people whose application has been rejected as manifestly unfounded or inadmissible, as well as to asylum applicants under the Dublin Regulation, but they may be reversed if a subsequent asylum application is admitted or if the expulsion or transfer cannot be carried out for reasons unrelated to the person¹⁶⁹.

If the applicants spend more than 15 months in the asylum procedure, they have the right to receive greater benefits, and access to the healthcare system is no longer restricted¹⁷⁰. The psychological impact that living for long periods in group accommodation centres may have on asylum applicants should also be stressed, since they do not have privacy or independence there. Indeed, in some temporary accommodation facilities in Berlin

¹⁶¹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 65: <https://www.asylumineurope.org/reports/country/germany>.

¹⁶² *Ibid.*, p. 71.

¹⁶³ European Home Care: <https://www.eu-homecare.com/de/>. After the scandal, in 2015, the management was transferred to the German Red Cross (Deutsches Rotes Kreuz: <https://www.drk.de/home/>).

¹⁶⁴ DW News (2018): "Refugee abuse trial opens in Germany", *Deutsche Welle*, 8 November, 2018: <https://www.dw.com/en/refugee-abuse-trial-opens-in-germany/a-46204799>.

¹⁶⁵ Asylum Applicants Benefits Act (*Asylbewerberleistungsgesetz*), Section 4: <https://www.gesetze-im-internet.de/asylblg/BJNR107410993.html>.

¹⁶⁶ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 60: <https://www.asylumineurope.org/reports/country/germany>.

¹⁶⁷ Asylum Applicants Benefits Act (*Asylbewerberleistungsgesetz*), Section 3: <https://www.gesetze-im-internet.de/asylblg/BJNR107410993.html>.

¹⁶⁸ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 60: <https://www.asylumineurope.org/reports/country/germany>.

¹⁶⁹ *Ibid.*, p. 62.

¹⁷⁰ *Ibid.*, p. 60. Before the legislative reform of March 2015, this period was 48 months.

there have been numerous cases of depression, alcoholism and drug abuse recorded¹⁷¹. Furthermore, as noted by a report published by the European Council on Refugees and Exiles (ECRE), many facilities do not have qualified staff and there is a lack of coordination between the authorities, NGOs and volunteers who work in the centres, who are occasionally obliged to take on consultancy tasks or jobs that fall under the authorities' competence¹⁷². In this regard, it is important to underline that management of the German reception system works via public tender (for periods of three years), in which NGOs and private companies or associations may take part. On deciding them, the most economical proposal is valued more highly than the staff's technical specialisation. This gives rise to very high ratios of places in the centres per technical staff numbers (social workers and psychologists), with the level of specialisation reduced to a minimum in reception centres for coping adequately with the situation of especially vulnerable people.

As for people benefiting from international protection, it should be noted that since mid-2016 there have been restrictions when establishing their residence. Whereas before they were free to settle down anywhere in the country, since then they may be obliged to stay in the states and municipalities where the asylum procedure has been implemented in order to "promote their lasting integration [...] in the Federal Republic of Germany" for a period of three years as of recognition of the residence permit being issued¹⁷³. There are exceptions related to continuing studies or accepting jobs. Nevertheless, German legislation goes one step further in its aim of avoiding segregation of communities and prevents the person from transferring their residence to places in which the authorities presume they will not use German as their main language of communication and may not continue deepening their integration into the country¹⁷⁴. These restrictions, which are only applicable to people with protection granted as of 1 January 2016 onwards, have been set up in seven German states: Bavaria, Baden-Württemberg, Northern Rhine-Westphalia, Hesse, Sarre, Saxony and Saxony-Anhalt¹⁷⁵. Cities such as Berlin, Bremen and Hamburg have not introduced these kinds of restrictions.

The people benefiting from international protection are not obliged to stay in the reception centres or group accommodation centres, but access to private housing is one of the main problems they face in Germany, especially in the big cities. This is due to the general scarcity of housing in many cities and regions, which is aggravated by residency restrictions applied to refugees, which obliges them to stay in the state and town where they were accommodated during the asylum procedure in order to foster their inclusion. Indeed, the supply of rented accommodation fell notably from 2015, when Refugees Welcome¹⁷⁶ helped put thousands of landlords in touch with refugees seeking a room to live in, to 2018, when scarcely 20 landlords registered with that organisation's service.

This situation leads to many of these people with protection granted finding they need to prolong their stay in the centres, without it being clear which institution should cover the costs of this¹⁷⁷, since once some kind of protection has been obtained, they lose the status of asylum applicants, which is essential to stay in the accommodation system. This circumstance is particularly worrying in Berlin, where emergency facilities are still working for asylum applicants and refugees, though they were originally designed to accommodate people for very short periods of time. In 2018, the authorities began to build subsidised prefabricated living modules in that city for refugees, known as MUF (*Modulare Unterkünfte für Flüchtlinge*), where 21,600 places are currently offered¹⁷⁸. In a similar vein, the government of Berlin has set up work panels with different NGOs to try to address the situation together¹⁷⁹.

If people benefiting from international protection cannot cover the costs of renting a flat or room, they can get

¹⁷¹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 71: <https://www.asylumineurope.org/reports/country/germany>.

¹⁷² *Ibid.*, p. 70.

¹⁷³ Residence Act (*Aufenthaltsgesetz*): Chapter 2.1., Section 12a(1): <https://germanlawarchive.iuscomp.org/?p=1464> (traducción propia).

¹⁷⁴ *Ibid.*, Chapter 2.1., Section 12a(4).

¹⁷⁵ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 102: <https://www.asylumineurope.org/reports/country/germany>.

¹⁷⁶ Refugees Welcome International: <https://www.refugees-welcome.net/>.

¹⁷⁷ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 103: <https://www.asylumineurope.org/reports/country/germany>.

¹⁷⁸ For more information, see: <https://www.berlin.de/laf/wohnen/allgemeine-informationen/modulare-unterkuenfte/>.

¹⁷⁹ Entrevista con Refugees Welcome (Berlin, 25 September, 2018).

benefits from local services or in the local job centre, up to a set limit that varies from one place to another depending on the local housing market. In addition, there are organisations that offer support in searching for housing, though their services are only available in big cities.

4.2. People in a vulnerable situation

In the German asylum system, there is no identification protocol for people with special needs for them to be treated accordingly, in either the asylum or reception processes. In some “arrival centres” as in Berlin, asylum applicants have an interview with the social services in order to identify applicants’ vulnerable profiles and possible needs that must be taken into account for accommodation. However, this is not done systematically in all of the country’s centres and there is no legal provision obliging them to accommodate families, women or vulnerable groups separately from other applicants in the reception centres¹⁸⁰. Although in 2015 the Interior Ministry and the BAMF drew up a draft document to identify vulnerable groups for it to be introduced into the Asylum Act, it has not been implemented, though it is available for the BAMF staff as internal action guidelines¹⁸¹. In this context, organisations such as UNHCR do advocacy work to foster improvements in identifying people in vulnerable situations, mainly via specialised training.

For its part, the BAMF has instructors specialising in people who are persecuted for reasons of gender, unaccompanied minors, victims of torture and people with trauma, as well as victims of human trafficking¹⁸², but their availability is not always guaranteed due to their low numbers. Some people belonging to these groups may receive special support and treatment in specialist centres for psychosocial aid and assistance for people in vulnerable situations. These are managed by civil society organisations with public funding. One example is the four psychosocial centres in Hesse for asylum applicants and refugees suffering from trauma, which is the result of a joint programme launched in 2015 by the state of Hesse and the Sigmund Freud Institute¹⁸³. Others throughout the country are managed by NGOs such as *Diakonie Deutschland*, which is in charge of over half of these kinds of centres in Germany, in 14 locations¹⁸⁴.

Other groups, such as people with functional diversity, find support in specific organisations such as *Lebenshilfe*¹⁸⁵, located in several German cities like Berlin, Frankfurt and Hamburg. This organisation provides assistance for refugees with functional diversity, placing special emphasis on their inclusion process. Their work of raising awareness as regards people in this group during the “crisis” of 2015 and 2016¹⁸⁶ was very notable. This organisation also provides online and phone advice.

LGBTI people¹⁸⁷ for their part have access to specific accommodation centres in some German cities thanks to the initiative of local authorities and some NGOs, which have given support to this social group after numerous attacks and cases of harassment registered in reception centres in recent years¹⁸⁸. The German Asylum Act deems that belonging to a specific social group is a reason for persecution, noting that this may include “a group based on a common characteristic of sexual orientation”¹⁸⁹.

¹⁸⁰ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 76: <https://www.asylumineurope.org/reports/country/germany>.

¹⁸¹ *Ibid.*, p. 42.

¹⁸² BAMF (2016): *The Federal Office and its Tasks*, p. 5: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Flyer/bundesamt-und-seine-aufgaben.html>.

¹⁸³ HAUSWEDELL, C. y AHMADI, N. (2018): “Sharp increase in refugee suicides in Hesse, Germany”, *Infomigrants*, 15 May, 2018: <http://www.infomigrants.net/en/post/9233/sharp-increase-in-refugee-suicides-in-hesse-germany>.

¹⁸⁴ SANDNER, T. y WAGNER, A. (head) (2016): “Helping refugees together”, p. 6: <https://tinyurl.com/yc99pgn3>.

¹⁸⁵ *Lebenshilfe*: <https://www.lebenshilfe.de/>.

¹⁸⁶ DOCKERY, W. (2018): “Support for disabled refugees in Germany”, *Infomigrants*, 25 May, 2018: <http://www.infomigrants.net/en/post/9483/support-for-disabled-refugees-in-germany>.

¹⁸⁷ Lesbians, gay people, transsexuals, bisexuals, transgender, intersexual and other forms of sexual-affective diversity.

¹⁸⁸ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 77: <https://www.asylumineurope.org/reports/country/germany>.

¹⁸⁹ Asylum Act (*Asylgesetz*): Chapter 2.2, Section 3b: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219 (traducción propia).

4.2.1. Unaccompanied children

Unaccompanied children are an exception among the lack of protocols for identifying vulnerabilities, and they are the only group for which the BAMF gathers statistical asylum data. Regardless of their administrative situation in the country, unaccompanied children must be provisionally protected by the public office for juvenile welfare in the first place where they enter into contact with the authorities or have been localised. That office is responsible for seeking suitable provisional accommodation for them. According to the Federal Association for Unaccompanied Minor Refugees¹⁹⁰, the number of unaccompanied children under the juvenile welfare authorities' responsibility at the end of 2017 came to around 30,900¹⁹¹.

When the minor is under the responsibility of the juvenile welfare office, an initial check-up is carried out to evaluate their state of health and their age (the local juvenile welfare office is responsible for determining their age). This procedure is carried out differently in different German states. Generally, the procedure for determining age consists of checking the identity documents the person is carrying. If they do not have documents, an assessment is carried out via visual observation by qualified members of the office, who can also count on witnesses' and experts' opinions. Only in cases where this evaluation continues to throw up doubts about the age is a medical examination carried out using a bone test¹⁹². Once the age is determined, the minor goes on to territorial distribution in keeping with a specific quota of minors that must take into account the child's greater interest and possible prejudices that transfer to another state may cause them, in both physical and psychological terms¹⁹³. After this distribution, the local juvenile welfare office in the place where he/she has been assigned becomes responsible for their reception and assigns them a guardian¹⁹⁴, who must be responsible for looking for a home for them, whether it is with their family members if they are in the country, a host family or a shelter¹⁹⁵, and for accompanying them until they are of the age of majority that¹⁹⁶ corresponds to the one in their country of origin¹⁹⁷. The main challenge posed by the increase in arrivals of unaccompanied children to the country in recent years has been in having enough legal guardians available for allocation, each of whom can be responsible for up to 50 minors¹⁹⁸.

Once accommodated in the designated place, the minor is given a more comprehensive examination¹⁹⁹, the guardian assesses the need for education and the local juvenile welfare office clarifies his/her residence status so that the guardian can determine whether or not to request international protection²⁰⁰. The role of the guardian in the asylum process, on the other hand, is not clear and the support they may offer the minor is often insufficient²⁰¹. Only in some parts of the state of Hesse can the guardian ask a court to assign a legal representative if they consider they do not have sufficient competence to represent the minor in the asylum procedure. In the rest of the country, this possibility does not exist. Both the guardian and the legal representative, as well as the juvenile welfare office, then

¹⁹⁰ Bundesfachverband Unbegleitete Minderjährige Flüchtlinge: <https://b-umf.de/> (non-governmental association).

¹⁹¹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 76: <https://www.asylumineurope.org/reports/country/germany>.

¹⁹² ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 44: <https://www.asylumineurope.org/reports/country/germany>. The bone test is heavily criticized by the German medical community, which has led to the rejection of the government's proposal to make it obligatory. Currently, the possibility of carrying out a diagnostic method using an ultrasound test is being studied (BRADY, K. (2019): "Germany looks into ultrasound age tests on unaccompanied minor refugees", *Deutsche Welle*, 21 January, 2019: <https://www.dw.com/en/germany-looks-into-ultrasound-age-tests-on-unaccompanied-minor-refugees/a-47161360>).

¹⁹³ SALEEM, A. (2018): "Unaccompanied minor refugees in Germany: What you need to know", *Infomigrants*, 11 April, 2018: <http://www.infomigrants.net/en/post/8552/unaccompanied-minor-refugees-in-germany-what-you-need-to-know>.

¹⁹⁴ This must be approved, in the final instance, by the Family Court (BAMF (2018): *The stages of the German asylum procedure*, p. 37: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/das-deutsche-asylverfahren.html>).

¹⁹⁵ SALEEM, A. (2018): "Unaccompanied minor refugees in Germany: What you need to know", *Infomigrants*, 11 April, 2018: <http://www.infomigrants.net/en/post/8552/unaccompanied-minor-refugees-in-germany-what-you-need-to-know>.

¹⁹⁶ This precept was introduced in 2015. Before, the guardian was only required until 16 years of age.

¹⁹⁷ BAMF (2018): *The stages of the German asylum procedure*, p. 37: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/das-deutsche-asylverfahren.html>

¹⁹⁸ OECD (2017): *Finding their way: labour market integration of refugees in Germany*, p. 60: <https://www.oecd.org/els/mig/Finding-their-Way-Germany.pdf>. In 2016, delegating a guardian usually took at least a month on average.

¹⁹⁹ Regardless of their nationality and legal status, the minors have access to the healthcare system in the same conditions as German national minors.

²⁰⁰ If it is deemed that the asylum application has no grounds, then the immigration authorities may grant him/her a *duldung* or consider other possibilities in keeping with the Residence Act.

²⁰¹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 47: <https://www.asylumineurope.org/reports/country/germany>.

draw up and make the asylum application for the child. The BAMF's interview of the child is not compulsory²⁰², though if it is held it must be done by an interviewer with specific training to ensure a sensitive approach to the case and in the presence of the guardian.

In recent years, the number of international protection applications made by unaccompanied children has grown sharply in Germany from 2,100 in 2011 to about 22,000 in 2015 and nearly 36,000 in 2016²⁰³. In 2017, the number of applications then dropped abruptly to 9,084, of whom 14.3% were girls²⁰⁴. These minors' main countries of origin are Afghanistan (2,200), Eritrea (1,500) and Somalia (1,200)²⁰⁵. The average duration of a minor's asylum process has fluctuated in recent years, though it has always been above the average for other asylum applicants' cases: in 2014 a decision on the case took on average ten months; in 2015 seven months and in 2016 eight months (there is no date for 2017)²⁰⁶.

It should be noted that the reception conditions in the different federal states vary greatly, although the reports carried out show general improvements in recent years²⁰⁷. The unaccompanied children's reception conditions are generally better than those for minors who arrive in the country with their family members, since the latter are placed in reception centres without specific assistance for them. Although they obtain some international protection, once they are of legal age of majority, their protection as minors stops, even if certain kinds of aid such as accommodation and psychosocial support can be extended up to 21 years of age if the guardian requests it and as a result of a discretionary decision by the local authorities²⁰⁸.

Children who do not apply for international protection usually receive a *duldung* or "tolerated status". Given that they are minors, they may only be returned to their country of origin when there is written documentation certifying that a member of the family or youth services will take care of the minor on arrival in the country of origin, which means that they are seldom returned. Hence, there are a great many young people living in Germany under a "tolerated status", which does not entail security or certainty as regards their future legal residence status.

Lastly, it is worth mentioning that in October 2018, the whereabouts of about 3,500 unaccompanied minor refugees in Germany was unknown²⁰⁹.

4.2.2. Women victims of violence

The German Asylum Act takes into account sexual violence and acts of a specifically gender nature as acts of persecution for which a person is susceptible to receive international protection²¹⁰. Gender identity or sexual orientation are also treated as possible reasons for persecution²¹¹. Regardless of the grounds for their cases, almost a third of the refugees in Germany are women. In 2017, the number of women asylum applicants in the country was

²⁰² BAMF (2018): *The stages of the German asylum procedure*, p. 37: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/das-deutsches-asylverfahren.html>.

²⁰³ HAHN-HOBECK, N. (2017): "Unaccompanied Minors in the German Context", en en Korntheuer, A., Maehler, D. and P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, p. 133: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf; BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, p. 25: <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/bundesamt-in-zahlen-2017.html?nn=9121126>.

²⁰⁴ BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, p. 25: <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/bundesamt-in-zahlen-2017.html?nn=9121126>.

²⁰⁵ It is worth noting the huge drop in Afghan minors' Asylum applications compared to 2016, when there were about 15,000 applications (UNHCR (2018): *Global trends: Forced displacement in 2017*, p. 48: <https://www.acnur.org/5b2956a04.pdf>).

²⁰⁶ OECD (2017): *Finding their way: labour market integration of refugees in Germany*, p. 59: <https://www.oecd.org/els/mig/Finding-their-Way-Germany.pdf>;

²⁰⁷ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 77: <https://www.asylumineurope.org/reports/country/germany>.

²⁰⁸ OECD (2017): *Finding their way: labour market integration of refugees in Germany*, p. 60: <https://www.oecd.org/els/mig/Finding-their-Way-Germany.pdf>.

²⁰⁹ DPA y EP (2018): "En Alemania hay más de 11.000 personas desaparecidas, incluidos unos 3.500 menores refugiados", ("In Germany there are over 11,000 missing persons, including about 3,500 refugee minors"), *Europapress*, 24 December, 2018: <https://www.europapress.es/internacional/noticia-alemania-hay-mas-11000-personas-desaparecidas-incluidos-3500-menores-refugiados-20181224111441.html>.

²¹⁰ Asylum Act (*Asylgesetz*): Chapter 2.2, Section 3a: http://www.gesetze-im-internet.de/englisch_asylvg/index.html#gl_p0219.

²¹¹ *Ibid*, Chapter 2.2., Section 3b.

over 78,400 (half of them under 18 years of age)²¹². In that year, the total number of women granted protection due to gender-based persecution came to 20,110, most of them Afghan, Iraqi and Syrian nationals²¹³, as seen in Figure 3.

Figure 3. Asylum applicants in Germany in 2017, by sex (%)

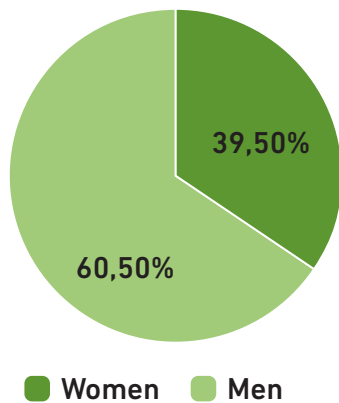
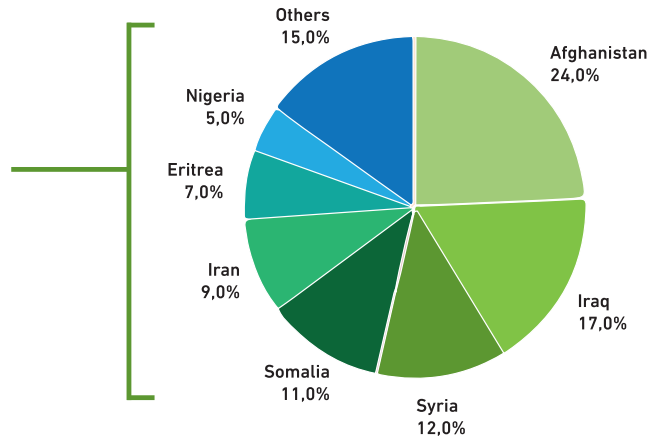


Figure 4. Proportion of women asylum applicants in Germany in 2017, by nationality (%)



Source: BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, pp. 24 y 55.

There are some loopholes in identifying situations of vulnerability related to gender and reception. Attention to women's special needs as regards accommodation or integration programmes is minimal, since there are no spaces reserved or specifically designed for them. Separation by sex in the reception centres is not considered in any regulation, and the cases of women and girls victims of trafficking are seldom identified. The women often suffer sexual violence within the centres themselves, but they are uneasy in talking about it because they think it may have a negative effect on the asylum procedure²¹⁴. There are hardly any inclusion roadmaps specifically for women, who have greater difficulties than men in joining the job market since they have to take care of the sons and daughters and often have difficulties in attending training courses.

Some NGOs like *Terre des femmes*²¹⁵ carry out political and social advocacy to raise awareness about the needs and dangers faced by women, both on the migration journey and at its end²¹⁶. Creating specialised reception centres, accompanying them in the process of inclusion in the country, and identifying possible cases of trafficking and sexual violence (via training, especially for those who carry out asylum interviews), are the main challenges for the German reception system as regards women.

5. Inclusion

The inclusion process for refugees is considered a crucial matter for maintaining social cohesion and political balance in Germany, a country whose annual investment in receiving refugees is approximately double that invested by UNHCR all over the world²¹⁷. Asylum applicants, on the other hand, unlike those with high probabilities of being

²¹² BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, p. 24: <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/bundesamt-in-zahlen-2017.html?nn=9121126>.

²¹³ *Ibid*, page. 55.

²¹⁴ WEISE, H. (2018): "Women refugee face difficult path to integration in Germany", *Deutsche Welle*, 19 September, 2018: <https://www.dw.com/en/women-refugees-face-difficult-path-to-integration-in-germany/a-40593611>.

²¹⁵ *Terre des femmes*: <https://www.frauenrechte.de/online/index.php>.

²¹⁶ This organisation has a consultancy and support service for women and girls who are victims of gender-based violence, located in Berlin since 2011. In 2016, a three-year project was launched involving putting German or resident women volunteers in contact with recently arrived women migrants so as to be able to guide them and get support to help in the integration process.

²¹⁷ DERNBACH, A. (2018): "Seehofers Staatssekretär: Noch 10 bis 15 Jahre Geld für Integration", *Der Tagespiegel*, 16 May, 2018: <https://www.tagesspiegel.de/politik/fluechtlinge-seehofers-staatssekretar-noch-10-bis-15-jahre-geld-fuer-integration/22544360.html>. In May 2018, the government announced a significant increase in federal funds for inclusion programmes over the next decade.

granted some kind of international protection (such as Syrian nationals), are left out of the inclusion programmes. Since 2005, Germany has had a special body within the Federal Government called the *Ombudsman's Office*, responsible for matters of migration, refuge and integration. Furthermore, the federal states have their own integration ministers, who meet periodically to coordinate and review progress in key aspects such as statistics on healthcare, education, employment, level of German, participation in public life, crime rates and rates of acquiring citizenship. Even so, some surveys suggest that the inclusion policies have not worked as they should in the country, especially for the Muslim population, which continues having to face harsh outbreaks of discrimination²¹⁸.

In August 2016, the new Integration Act was passed with the intention of promoting quick integration of asylum applicants and refugees into the German job market²¹⁹. This brought with it a bolstering of the restrictions on freedom of movement for these people by means of “residence obligations”, at the same time as it extended early inclusion support for asylum applicants with high probabilities of staying in the country, in other words those from countries with high protection rates (above 50%), meaning: Syria, Iraq, Iran, Eritrea and Somalia²²⁰.

The BAMF is the body responsible for launching the integration courses (Integrationsklassen), which include German classes (600 hours) and civic orientation classes (100 hours)²²¹. Assistance has been obligatory for these courses since 2016²²², though they are not completely free²²³. Those who can access them are people benefiting from some kind of international protection with a residence permit and asylum applicants who are nationals from countries with high recognition rates (Syria, Iraq, Iran, Eritrea and Somalia), with the exception of children and adolescents going to school in Germany. Access for asylum applicants, however, is not automatic; it is subject to the availability of places. In 2017, the number of people authorised to take part in the integration courses was over 376,000, among whom the new attendees accounted for 292,000²²⁴ (14% fewer than in 2016)²²⁵. The waiting time to begin the course was reduced in 2017 from three months to six weeks²²⁶.

The courses are given throughout the country by public bodies and private companies, all co-ordinated by the BAMF. The latter also funds specific courses for certain groups of illiterate people, youths, parents and women, as well as individual advice services available before, during and after the integration course, provided by means of NGO support and advice networks for migrants²²⁷. High-level courses of German, specifically for professionals, are funded by the Ministry of Labour and Social Affairs, though they are also co-ordinated by the BAMF.

Provided that they are not nationals from “safe countries of origin”, asylum applicants who do not have access to the integration courses can take part voluntarily in specific courses for initial guidance when there are available spaces²²⁸. Some federal states such as Bavaria also offer orientation and German language courses

²¹⁸ MACGREGOR, M. (2018): “Integration in Germany: ‘We can do it’, but we’re not yet there”, *Infomigrants*, 14 June, 2018: <http://www.infomigrants.net/en/post/9905/integration-in-germany-we-can-do-it-but-we-re-not-there-yet>.

²¹⁹ BMAS (2016): “The Integration Act”: <https://www.bmas.de/EN/Our-Topics/Info-for-asylum-seekers/the-new-integration-act.html>.

²²⁰ KORNTHEUER, A. (2017): “Germany’s Refugee Protection System”, in Korntheuer, A., Maehler, D. and P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, page 38: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf. Between 2015 and 2017, the government funds for integration rose by 250%, and since January 2016 the federal states receive compensation of €670 a month per asylum applicant, which comes from the national budget (KONLE-SEIDL, R. (2018): *Integration of Refugees in Austria, Germany and Sweden: Comparative Analysis, Policy Department A: Economic and Scientific Policy* (European Parliament), p. 36: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU\(2018\)614200_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU(2018)614200_EN.pdf)).

²²¹ Residence Act (*Aufenthaltsgesetz*): Chapter 3, Section 43: <https://germanlawarchive.iuscomp.org/?p=1464>.

²²² Failure to attend the integration course may lead to a temporary reduction in social benefits.

²²³ The legislation stipulates that the participants must pay a reasonable percentage for the course in keeping with their economic situation (Residence Act (*Aufenthaltsgesetz*): Chapter 3, Section 43: <https://germanlawarchive.iuscomp.org/?p=1464>). Refugees with an income must pay €1.95 for each 45-minute session.

²²⁴ The courses’ attendees include foreigners with different migration profiles, including citizens from the EU (approximately 50,200) (BAMF (2018): “Geschäftsstatistik zum Integrationskurs 2017”: <http://www.bamf.de/DE/Infothek/Statistiken/InGe/inge-node.html>).

²²⁵ BAMF (2018): “Geschäftsstatistik zum Integrationskurs 2017”: <http://www.bamf.de/DE/Infothek/Statistiken/InGe/inge-node.html>.

²²⁶ KONLE-SEIDL, R. (2018): *Integration of Refugees in Austria, Germany and Sweden: Comparative Analysis, Policy Department A: Economic and Scientific Policy* (European Parliament), p. 33: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU\(2018\)614200_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU(2018)614200_EN.pdf).

²²⁷ BAMF (2016): *The Federal Office and its Tasks*, pp. 8 y 9: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Flyer/bundesamt-und-seine-aufgaben.html>.

²²⁸ BAMF (2017): “Initial orientation courses for asylum applicants”: <http://www.bamf.de/EN/Willkommen/Erstorientierung/Erstorientierungskurse/erstorientierungskurse.html?nn=9941946>.

for asylum applicants on the whole, but not everybody manages to gain access to them given the small number of places offered²²⁹. As for the language classes, it should be noted that German courses have been set up for foreigners regardless of their legal status or their nationality by some municipalities such as the city of Munich and associations of volunteers²³⁰. These types of programmes enable access for people who *a priori* have low expectations of being able to stay in the country, as well as those who are accommodated in rural areas far from services that other asylum seekers can normally access. The German Residence Act itself points out the importance of involving different parties from civil society in identifying the existing inclusion measures and in implementing the national integration programme²³¹, indicating that “religious communities, trade unions, employers’ associations, voluntary social organisations and other social interest groups should get involved too”²³².

As for the residence permit, people who are granted subsidiary protection in Germany get a permit valid for one year, renewable for two years more. People who are granted refugee status, on the other hand, get a three-year residence permit. After that time, people with refugee status can apply for a *niederlassungserlaubnis* or permanent residence permit, if they can show a certain level of integration in society, an advanced level of German and that they have sufficient economic means to sustain their family. They can also obtain this permit after having resided for five years in Germany, including the protection procedure period, with some less demanding economic requirements and level of German²³³. Those benefiting from subsidiary protection or some national protection, on the other hand, do not have privileged access to the permanent residence permit like those who have refugee status. These other people can only apply for a permanent residence permit after five demonstrable years in Germany, including the protection procedure period. They must also comply with the necessary requisites to issue this permit, which involve paying contributive taxes for at least 60 months, which is usually the equivalent of having been working with a certain level of income for five years²³⁴. The total number of permanent residence permits issued in 2017 was 7,750²³⁵.

Lastly, it is worth underlining the greater difficulties for inclusion in the eastern states of the country, which are traditionally more hostile towards the migrant population. Although the German people were seen to be very welcoming at the beginning of the “refugee crisis” in 2015, in recent years a growing attitude of rejection and violence towards these people has been seen. Magdeburg, the capital of the state of Saxony-Anhalt, is an example of a city where there have been a high number of verbal and physical attacks registered on refugees, and where the voices of the far right against immigration have grown, especially since the second half of 2015²³⁶. In other cities in the country, there have been violent protests by far right groups and xenophobic movements against Merkel’s policy, motivated by the inefficiency of the expulsions, as well as serious incidents between Germans and refugees²³⁷. In opposition to the numerous xenophobic-styled protests, hundreds of thousands of citizens from different parts of the country demonstrated in mid-October 2018 in Berlin in a march called by a multitude of associations, political groups and organisations from civil society, among whom there were also

²²⁹ PREM, M. (2017): “Access to Resettlement Services in Germany: Language Options for Refugees and Asylum Seekers in Germany”, en Korntheuer, A., Maehler, D. and P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, page 122: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf.

²³⁰ PREM, M. (2017): “Access to Resettlement Services in Germany: Language Options for Refugees and Asylum Seekers in Germany”, en Korntheuer, A., Maehler, D. and P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, p. 122: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf.

²³¹ Approved in 2016: <http://www.bundesregierung.de/resource/blob/975226/476566/c324d42f881b0bd104ba3c9e7bdd405e/2007-07-12-nationaler-integrationsplan-data.pdf?download=1>.

²³² Residence Act (*Aufenthaltsgesetz*): Chapter 3, Section 45: <https://germanlawarchive.iuscomp.org/?p=1464> (traducción propia).

²³³ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 93: <https://www.asylumineurope.org/reports/country/germany>.

²³⁴ *Ibid*, page 94.

²³⁵ *Ibid*, page 93.

²³⁶ Deutsche Welle (2018): “Man sets his dogs on Syrian in Magdeburg attack”, *Deutsche Welle*, 14 May, 2018: <https://www.dw.com/en/man-sets-his-dogs-on-syrian-in-magdeburg-attack/a-43780629>.

²³⁷ STRONESTREET, J. (ed.) (2018): “Facing far-right protest, Merkel pledges action over failed asylum seekers”, Reuters, 16 August: <https://tinyurl.com/yd8j76ok>; RAWLINSON, K. and agency (2018): “Merkel condemns xenophobic riots after killing of German man”, *The Guardian*, 17 August, 2018: <https://www.theguardian.com/world/2018/aug/27/germany-xenophobic-riots-chemnitz-far-right-pegida>.

international organisations such as Amnesty International²³⁸. In other cities such as Munich, which took in over 21,500 asylum applicants and protection beneficiaries from 2012 to 2016, it is believed that good work has been done in terms of immigration²³⁹. However, aware that there is still much to be done, in March 2018 the city's authorities presented a new integration plan concentrating on still deficient aspects such as access for refugees to housing, education and job training²⁴⁰.

Despite all of this, the “Integration Barometer 2018”, a report drawn up by the Expert Council of German Foundations on Integration and Migration²⁴¹, reveals that German citizens still see the multicultural aspect of the country a positive thing²⁴². The percentage of German citizens who believe the situation of integration is positive comes to 63.8% among those with no history of migration, and 68.9% among those who have some migration history²⁴³. Nevertheless, this study also shows the different perception of existing in the country's eastern states compared to the rest.

5.1. Healthcare

In Germany, asylum applicants do not have universal access to healthcare. They do have limited access during the asylum procedure, but it varies from one federal state to another. Once they have been granted some kind of protection, they have access to the healthcare system in the same conditions as German citizens.

At the start of the asylum procedure, after registering the application, the applicants must undergo a medical examination which is paid for by the federal state in which they are located. It should be said that this examination concentrates more on detecting possible infectious or contagious diseases that must be treated before the person is referred to an accommodation centre, rather than drawing up the person's medical profile. Furthermore, as there is no standard procedure for a medical check-up and for transmitting the information to other parties in the process, when the person is assigned an accommodation place (particularly when this involves transfer to another federal state) the information about their state of health is often lost²⁴⁴.

During the asylum process, applicants have limited access to healthcare, though it is restricted to medical and dental treatment for pain and acute illnesses, and includes administering medicines and vaccines²⁴⁵. However, complete medical aid is guaranteed for pregnant women and those who have just given birth. If the asylum applicants reach 15 months as beneficiaries of this limited aid, they normally become holders of the standard social benefits in Germany, which means having access to healthcare in the same conditions as German citizens who get social benefits²⁴⁶. In practice, access to healthcare varies depending on the place where the asylum applicant is, since the states have a certain level of discretion in applying the law. Some, such as Bremen and Hamburg, immediately issue an electronic health card which enables access to nearly all of the basic health services²⁴⁷.

²³⁸ Reuters (2018): “German march against far right draws huge crowds in Berlin”, *The Guardian*, 14 October, 2018: <https://www.theguardian.com/world/2018/oct/14/german-march-against-far-right-draws-huge-crowds-in-berlin>.

²³⁹ DAMBACH, K. (2018): “Munich integration plan successful, but there is still work ahead”, *Infomigrants*, 5 March, 2018: <http://www.infomigrants.net/en/post/7881/munich-integration-plan-successful-but-there-is-still-work-ahead>.

²⁴⁰ Idem.

²⁴¹ Sachverständigenrat deutscher Stiftungen für Integration und Migration: <https://www.svr-migration.de/>.

²⁴² See the report in German here: https://www.svr-migration.de/wp-content/uploads/2018/09/SVR_Integrationsbarometer_2018.pdf.

²⁴³ Deutsche Welle (2018): “Germans upbeat about immigration, study finds”, *Deutsche Welle*, 17 September, 2018: <https://www.dw.com/en/germans-upbeat-about-immigration-study-finds/a-45519655>.

²⁴⁴ HETTICH, N. (2017): “Acces to Health Services for Refugees in Germany”, en Korntheuer, A., Maehler, D. y P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, p. 87: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf.

²⁴⁵ Asylum Applicants Benefits Act (*Asylbewerberleistungsgesetz*), Section 4: <https://www.gesetze-im-internet.de/asylblg/BJNR107410993.html>.

²⁴⁶ ECRE (Ed.) (2018): “Country report: Germany”, *Asylum Information Database*, p. 75: <https://www.asylumineurope.org/reports/country/germany>.

²⁴⁷ HETTICH, N. (2017): “Acces to Health Services for Refugees in Germany”, en Korntheuer, A., Maehler, D. y P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, p. 90: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf.

As for mental health, it should be stressed that throughout the country there are specialist centres in psychosocial treatment for victims of torture that often attend to asylum applicants and refugees²⁴⁸. These centres are mainly financed by private donations and only occasionally receive public subsidies to partially cover the costs they incur in providing their services²⁴⁹. Asylum applicants accommodated in reception centres, if given the pertinent assessment by the centre's staff, may be referred to other centres or the German social security's mental health services. However, the lack of funding for interpreters to accompany them on the medical visits and for psychotherapy treatment is the main barrier to effective access to these services²⁵⁰.

5.2. Access to education and employment

The right and obligation to education are guaranteed by law for people until 16 years of age throughout the country, regardless of their legal status. Nevertheless, given that in Germany education is decentralised and each federal state has its own education system, access to education in practice differs from one place to another. Normally, the children accommodated in reception centres do not have access to regular schooling while they are there, but receive basic education classes in them. When they can finally enter the education system, once they get some kind of protection (in some areas of the country they may go to school before), the lack of sufficient resources for the teachers becomes clear in attending to these minors' special needs²⁵¹. The big increase in arrivals of asylum applicants and refugees since 2014 has presented a significant challenge for the different education systems, which has led to an investment in information and training for the education staff and in pilot projects to adapt the asylum applicant children to the German language and education system, as well as getting many volunteers involved²⁵².

In May 2018, conservative politicians in the state of Bavaria announced the intention to include German social values in school classes for refugee children (with protection granted) in the country, which include language, religion, gender equality, the rule of law, the promotion of human dignity and more²⁵³.

Asylum applicants over 16 years of age can access professional training if they have a work permit. The fact that the permit initially lasts six months makes it difficult for the applicant to begin this kind of training, since it usually lasts between two and three years. Moreover, the risk that the asylum applicant may not complete the training dissuades many potential employers from offering them a contract, which is necessary to issue the work permit²⁵⁴.

During the first stage of the reception process, normally in the "arrival centres", the asylum applicants receive initial advice about access to the job market in Germany, by the Federal Employment Agency. Once a person is assigned an accommodation space in a specific place, the municipalities' local employment agencies have the competence for advice about employment and processing the work permit²⁵⁵. For refugees, on the other hand, the bodies in charge of integration into the job market are the *Jobscenters*, a consortium between the Federal Employment Agency and the municipalities.

²⁴⁸ The *Diakonie Deutschland* organisation manages over half of these psychosocial support centres for asylum applicants and refugees in Germany.

²⁴⁹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 75: <https://www.asylumineurope.org/reports/country/germany>.

²⁵⁰ HETTICH, N. (2017): "Access to Health Services for Refugees in Germany", en Korntheuer, A., Maehler, D. y P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, p. 89: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf.

²⁵¹ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 73: <https://www.asylumineurope.org/reports/country/germany>.

²⁵² VON MAURICE, J. y ROßBACH, H. (2017): "The Educational System in Germany", en Korntheuer, A., Maehler, D. y P. Pritchard (eds.) (2017): *Structural Context of Refugee Integration in Canada and Germany*, GESIS Series, Vol. 15, page 50: https://www.gesis.org/fileadmin/upload/forschung/publikationen/gesis_reihen/gesis_schriftenreihe/GS_15_-_Refugee_Integration_in_Canada_and_Germany.pdf.

²⁵³ Deutsche Welle (2018): "Germany's CSU and CDU want 'values' taught to refugee children in schools - report", *Deutsche Welle*, 7 May, 2018: <https://www.dw.com/en/germanys-csu-and-cdu-want-values-taught-to-refugee-children-in-schools-report/a-43678759>.

²⁵⁴ Idem.

²⁵⁵ OECD (2017): *Finding their way: labour market integration of refugees in Germany*, p. 14: <https://www.oecd.org/els/mig/Finding-their-Way-Germany.pdf>.

The conditions in the German job market are currently very favourable, with one of the lowest unemployment rates in the world of around 3.5%²⁵⁶. With the exception of asylum applicants coming from “safe countries of origin”, those who are not allowed to work while their procedure is being processed²⁵⁷, can opt for a work permit when they have been legally resident for three months in the country²⁵⁸, if they are not accommodated in reception centres. The restriction introduced as regards the type of accommodation where the person resides in practice creates a huge contradiction: those who are obliged to continue residing in the reception centres due to lack of sufficient resources when the “residence obligation” ends are prevented from entering the job market and thus from gaining economic independence and being able to leave the centres. What is more, in order to apply for a work permit it is necessary to have a concrete job offer, which is not at all easy to achieve due to the uncertainty about their possibilities of staying in the country²⁵⁹. In order to mitigate this aspect, in 2016 a stay permit called 3+2 was introduced, which allows asylum applicants and people with a *duldung*²⁶⁰ to begin professional training, guaranteeing its three years of duration plus two additional years of legal residence to work in a job. Meanwhile, they are exempt from the possibility of being deported²⁶¹. In practice, however, many local immigration offices deny this permit discretionally with no clear control mechanisms in this regard²⁶². An appeal may be made against this denial in the administrative courts.

Another concrete measure introduced in 2016 to foster access to the job market is the temporary suspension of the “priority examination”²⁶³ for asylum applicants and people with a *duldung* who have been under 15 months in the country, applicable from August 2016 to August 2019 in 133 of the 156 regions with the lowest employment rates²⁶⁴. In addition to this there was the approval, at the beginning of October 2018, of a draft to reform the Immigration Act to attract highly qualified workers from outside the EU. It proposes that companies may hire foreign workers in all professions “regardless of the official list of sectors suffering from a lack of workforce” and that they would not have to give preference to Germans²⁶⁵. Furthermore, it includes the creation of a new residence status for asylum applicants who have been denied protection but cannot be deported due to dangers in their country and who may thus continue the inclusion process in German society and are allowed to work. If it goes ahead, this legal status could replace the *duldung* or “tolerated status” that many people with this profile benefit from, with no legal guarantee of future permanence. This legal status would be coupled with a residence permit that would enable access to employment and continuation of the inclusion process, none of which is ensured with the *duldung*.

As regards people with refugee status, a recent report carried out by the Malteser International organisation about their situation makes it clear that those coming from non-European countries have difficulties in integrating into the German job market, where they come up against problems such as lack of language ability, insufficient training and difficulties in recognition of their qualifications²⁶⁶. The project “Integration through Qualification” (IQ) launched in 2005 by the Ministry of Employment and Social Affairs covers a network of hundreds of projects aimed at integrating migrants into the job market²⁶⁷. Through this, refugees have free access to specific advice services for their social group, about recognition of qualifications, work rights, professional training and more. However, its

²⁵⁶ OECD (2018): Unemployment rate (indicator): <https://data.oecd.org/unemp/unemployment-rate.htm>.

²⁵⁷ Asylum Act (*Asylgesetz*): Chapter 6, Section 61: http://www.gesetze-im-internet.de/englisch_asylvfg/index.html#gl_p0219.

²⁵⁸ Residency is legally authorised with the *aufenthalts gestattet*, issued on registering the asylum application.

²⁵⁹ Together with this, employers mention the lack of skill in speaking German, the lack of specific information and work habits as the main difficulties for job integration.

²⁶⁰ The 3+2 formula is not applicable to people benefiting from subsidiary protection, who are granted an initial residence permit for one year, renewable for two years.

²⁶¹ BMAS (2016): “The Integration Act”: <https://www.bmas.de/EN/Our-Topics/Info-for-asylum-seekers/the-new-integration-act.html>; Residence Act (*Aufenthaltsgesetz*): Chapter 2.4, Section 18a: and Chapter 5.2, Section 60a: <https://germanlawarchive.iuscomp.org/?p=1464>.

²⁶² OECD (2017): *Finding their way: labour market integration of refugees in Germany*, p. 12: <https://www.oecd.org/els/mig/Finding-their-Way-Germany.pdf>.

²⁶³ This examination gives priority in access to a job for German nationals and citizens of the EU.

²⁶⁴ KONLE-SEIDL, R. (2018): *Integration of Refugees in Austria, Germany and Sweden: Comparative Analysis*, Policy Department A: Economic and Scientific Policy (European Parliament), p. 32: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU\(2018\)614200_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU(2018)614200_EN.pdf).

²⁶⁵ NIENABER, M. (2018): “Germany agrees on immigration law to tackle labor shortages”, *Reuters*, 2 October, 2018: <https://www.reuters.com/article/us-germany-immigration-law/german-parties-agree-on-immigration-law-to-tackle-labor-shortages-idUSKCN1MC0RY>

²⁶⁶ FÜRSTENAU, M. (2018): “German NGO report urges facts over feelings in refugee debate”, *Deutsche Welle*, 27 September, 2018: <https://www.dw.com/en/german-ngo-report-urges-facts-over-feelings-in-refugee-debate/a-40715538>.

²⁶⁷ BMAS (2018): “Network IQ at a glance”: <https://tinyurl.com/ycndsylv>.

usefulness in recent years is far from clear, since 90% of the people who came to Germany as asylum applicants in 2015 are currently unemployed, as well as two thirds of those who arrived in 2013²⁶⁸.

5.3. Family reunification

Access to family reunification is different for people benefiting from subsidiary protection than for people with refugee status. The latter have the privilege of not having to demonstrate sufficient economic means to cover their living costs and those of their family members, provided they give notification of their wish to begin the process of reunification with their family within three months of the status being granted²⁶⁹. The application must be made in the German Embassy of the country where their family members are: spouse or registered partner, minor unmarried sons or daughters, and mother and/or father in the event that the refugee in Germany is a minor²⁷⁰. However, given the lengthy procedure, this is not always possible since the waiting time to get an appointment at the embassy can take months, especially if the family members have to go to the embassy from a neighbouring country²⁷¹. This is the case of Syrian nationals, who must go to Lebanon²⁷²; Afghans, who need to travel to India or Pakistan since March 2017 when the German embassy closed after being seriously hit by an attack²⁷³; and Eritreans, who have to go to Ethiopia or Kenya because the German Embassy in Eritrea does not have a visa section²⁷⁴. Furthermore, if the spouse requires a marriage certificate, this document is difficult to obtain in some countries²⁷⁵.

In the summer of 2015, these privileges were also granted to people benefiting from subsidiary protection. However, given the high number of asylum applicants registered in Germany since then and the growing number of family reunification applications that began to be registered as a result of granting international protection, eight months later in March 2016 the German government decided to temporarily suspend the right to family reunification for people benefiting from subsidiary protection. At first this suspension was intended for a period of two years, but it was extended to end in July 2018²⁷⁶. During the period of suspension for family reunification for these people, a rise in this type of protection (subsidiary) being granted was seen²⁷⁷, as well as a rise in the appeals filed to raise the protection granted to refugee status²⁷⁸.

As a result of the suspension, hundreds of Syrians with subsidiary protection began to leave Germany to Turkey to reunite with their family members there. Many travelled legally to Greece, where they contacted traffickers who transported them across the river to Turkey for about €200. Once in Turkey, they do not have a visa or any legal status²⁷⁹. Some media show witness accounts from traffickers who affirm that they transported more refugees from

²⁶⁸ MEHTA, S. (2018): "How Integration is Actually Working in Germany", *Refugees Deeply*, 24 October, 2018: <https://www.newsdeeply.com/refugees/community/2018/10/24/how-integration-is-actually-working-in-germany>.

²⁶⁹ Also, if notification of the wish to reunify the family is given within the aforementioned period, the partner who wishes to go to Germany is not required basic knowledge of German.

²⁷⁰ Residence Act (*Aufenthaltsgesetz*): Chapter 2.6, section 28: <https://germanlawarchive.iuscomp.org/?p=1464>.

²⁷¹ In some cities such as Amman, Beirut and Erbil, the International Organization for Migration also takes care of processing the application and sending it to Germany (DOCKERY, W. (2018): "Family reunification for refugees with subsidiary protection: What you need to know", *Infomigrants*, 31 July, 2018: <http://www.infomigrants.net/en/post/10941/family-reunification-for-refugees-with-subsidiary-protection-what-you-need-to-know>).

²⁷² In 2016, the average waiting time to get an appointment with the embassy in Beirut, the capital of Lebanon, was between 9 and 11 months.

²⁷³ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 99: <https://www.asylumineurope.org/reports/country/germany>.

²⁷⁴ Deutsche Welle (2018): "Family reunification hard for Eritrean refugees in Germany", *Infomigrants*, 10 May, 2018: <http://www.infomigrants.net/en/post/9180/family-reunification-hard-for-eritrean-refugees-in-germany>.

²⁷⁵ *Idem*.

²⁷⁶ ECRE (2018): "Germany: proposals to uphold suspension of family reunifications despite drop in potential applicants", *ECRE*, 19 January, 2018: <https://www.ecre.org/germany-proposals-to-uphold-cap-on-family-reunifications-despite-drop-in-potential-applicants/>.

²⁷⁷ The percentage of refugee statuses fell from 2015 at 48.5% of the total with protection granted, to 36.8% in 2016; while subsidiary protection rose from 0.6% to 22.1% in the same year (BAMF (2018): *Das Bundesamt in Zahlen 2017: Asyl, Migration und Integration*, p. 49: <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/bundesamt-in-zahlen-2017.html?nn=9121126>).

²⁷⁸ During 2016, there were positive decisions for 75% of the appeals submitted by people who had been granted subsidiary protection, giving rise to the replacement of this type of protection for refugee status. By the end of 2017, there were 71,084 of these appeals still pending a decision. (ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 100: <https://www.asylumineurope.org/reports/country/germany>).

²⁷⁹ MACGREGOR, M. (2018): "Syrians risking the journey again, for the sake of family", *Infomigrants*, 16 April, 2018: <http://www.infomigrants.net/en/post/8617/syrians-risking-the-journey-again-for-the-sake-of-family>.

Greece to Turkey in the early months of 2018 than in the opposite direction²⁸⁰. In April, the BAMF indicated that the whereabouts of about 4,000 refugees of Syrian origin was unknown. Many of them may have chosen to travel back to Turkey.

The right to family reunification for people benefiting from subsidiary protection was granted again in August 2018, albeit introducing a quota establishing a maximum of 1,000 visas a month²⁸¹. The monthly limit on the number of visas to be granted for family reunification in Germany has been heavily criticised by some organisations from civil society such as Amnesty International²⁸² and others that believe it is detrimental to women²⁸³. At the time the right was granted again, there were over 34,000 applications in embassies pending processing, which would mean almost 3 years following the established quota²⁸⁴. It seems that the order in which the applications are made is not going to be observed when processing them, but priority will be given to the families of people who have made an effort in their integration process in Germany.

The people who arrive in Germany via family reunification get a residence permit for a minimum of one year and a maximum equal to the length of the validity of the residence permit belonging to the family member who has been granted international protection in the country²⁸⁵. This protection, however, is not extended to the family members.

6. Detentions and deportations

German legislation does not allow for the detention of an asylum applicant during the procedure, unless they have already been detained for other reasons, in which case their continued detention can be considered for an initial period of up to four weeks²⁸⁶. There is no record that allows us to know whether or not asylum applicants are being detained during the BAMF's procedure or not, but there have been various cases known of asylum applicants being deported whose cases were still open²⁸⁷.

The authorities' abuse of the system, especially with cases of people from Afghanistan, should also be noted. Between January and mid-July 2018, there were 148 people returned to that country amid numerous criticisms about the unsafe situation there²⁸⁸. On 4 July, 2018, 69 Afghans returned (51 from the state of Bavaria), the most numerous group since this began to be carried out in December 2016²⁸⁹ following the signing of a bilateral agreement for readmission²⁹⁰. The subsequent suicide of one of them, then in Afghanistan, raised social and political tension to the point of calling for the Interior Minister's resignation²⁹¹. This call was intensified when the public became

²⁸⁰ The Local (2018): "Growing number of Syrian refugees in Germany making 'reverse escape' to Turkey", *The Local*, 12 April, 2018: <https://www.thelocal.de/20180412/report-increasing-numbers-of-syrian-refugees-in-germany-returning-to-turkey>.

²⁸¹ SANDERSON, S. (2018): "German government reveals details on planned family reunions", *Infomigrants*, 3 May, 2018: <http://www.infomigrants.net/en/post/9052/german-government-reveals-details-on-planned-family-reunions>.

²⁸² Amnesty International (2018): "Gesetzentwurf zum familiennachzug ist menschenrechtlich unverantwortlich", 8 May, 2018: <https://www.amnesty.de/informieren/aktuell/deutschland-gesetzentwurf-zum-familiennachzug-ist-menschenrechtlich>.

²⁸³ SANDERSON, S. (2018): "Are family reunifications biased against women?", *Infomigrants*, 24 July, 2018: <http://www.infomigrants.net/en/post/10772/are-family-reunifications-biased-against-women>.

²⁸⁴ MPOKE, M. (ed.) (2018): "Waiting for reünion: A new German law raises Syrian family's hopes", *Reuters*, 2 August, 2018: <https://www.reuters.com/article/us-europe-migrants-jordan/waiting-for-reunion-a-new-german-law-raises-syrian-familys-hopes-idUSKBN1KN29P>.

²⁸⁵ Residence Act (*Aufenthgesetz*): Chapter 2.5., Section 27(4): <https://germanlawarchive.iuscomp.org/?p=1464>.

²⁸⁶ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 80: <https://www.asylumineurope.org/reports/country/germany>.

²⁸⁷ Deutsche Welle (2018): "Germany admits to 5 illegal deportations", *Deutsche Welle*, 17 August, 2018: <https://www.dw.com/en/germany-admits-to-5-illegal-deportations/a-45115691>. The government's response to the written parliamentary question can be seen here: <http://dipbt.bundestag.de/doc/btd/19/039/1903922.pdf>.

²⁸⁸ AFP (2018): "Wrongly deported Afghan to return to Germany, says interior ministry", *The Local*, 19 July, 2018: <https://www.thelocal.de/20180719/wrongfully-deported-afghan-to-return-to-germany-ministry>.

²⁸⁹ Wire Services (2018): "German interior minister gets 69 failed asylum seekers deported on 69th birthday", *Daily Sabah*, 10 July, 2018: <https://www.dailysabah.com/europe/2018/07/10/german-interior-minister-gets-69-failed-asylum-seekers-deported-on-69th-birthday>.

²⁹⁰ Known as the *Joint Declaration of Intent on Cooperation in the Field of Migration*, signed on 3 October 2016, the same day the EU-Afghanistan framework agreement *Joint Way Forward* was also signed. The agreement between Germany and Afghanistan is not public.

²⁹¹ Reuters (2018): "Germany's interior minister urged to resign after death of asylum seeker", *The Guardian*, 11 July, 2018: <https://www.theguardian.com/world/2018/jul/11/germanys-interior-minister-urged-to-resign>.

aware of a Tunisian asylum applicant who had worked with Bin Laden being deported by ministerial order with no announcement made by the BAMF. The German Parliament immediately opened an investigation due to the suspicions that the minister may have abused his public position for party purposes²⁹².

On the other hand, when protection is denied and the person exceeds the period of 30 days to leave the country voluntarily, the highest authorities of the federal state where the person is located dictate an expulsion order, and a prohibition against their entry or residency in the entire Schengen territory enters into force for a period limited case-by-case by the BAMF. This prohibition is enforced by the country's immigration authorities. The prohibition is also applied to asylum applicants from "safe countries of origin" when their applications are finally rejected²⁹³. In order to expel the rejected applicant from the country, they may be detained.

The responsibility for detention prior to implementing an expulsion order falls on the federal states, whereas the deportation itself is the responsibility of the regional or local authorities or the border police. A person can only be returned to their country of origin from specific detention centres (which are different from penitentiary facilities). They may remain there, deprived of freedom, for up to six months²⁹⁴. The decentralisation and requirements of this competence means that the German map of deportations varies greatly from one state to another: in some, like Berlin, this measure is hardly used, whereas in others like Bavaria they intend to use it as the final outcome for all migrants who are denied international protection. Despite all of this, the detention of asylum applicants whose application has been given a negative decision is marginal overall. When an asylum applicant can be returned to their country of origin or transferred to another State responsible for their application, the police seek the person on the same day that the deportation or transfer is going to be made and they spend only a few hours in police custody²⁹⁵. In this context, however, things could change if the bill submitted by the government on 1 February 2019 goes ahead, with which it intends to improve the deportation procedures, strengthening the legal grounds for detention²⁹⁶. The maximum duration for police custody prior to being deported has gone from 4 to 10 days, following an amendment introduced into the Residence Act in mid-2017²⁹⁷.

The number of deportations in 2017 came to 23,966, mostly to Albania, Kosovo and Serbia, compared to 25,375 and 20,888 in 2016 and 2015 respectively. However, there is no breakdown of the figures enabling us to discern the number of asylum applicants whose protection has been denied among these²⁹⁸. If one takes into account that in the entire country there are six centres for detention prior to deportation, which together have a total capacity of 400 places²⁹⁹, one can deduce that the vast majority of deportations are preceded by an arrest that lasts only hours³⁰⁰. The legal requirement that deportations can only be carried out from detention centres, introduced in 2014, has meant that many federal states that do not have specific facilities must transfer the people to other federal states for this purpose, or else they do not use this measure. This is one of the cases in which a person can benefit from the *duldung* or "tolerated status". It is worth noting that in states where there are detention centres, such as Hesse, suicide attempts by refugees have been registered³⁰¹. Nevertheless, the highest number of self-harm and suicide attempts has been registered in the centre associated with Frankfurt airport, the one with the greatest transit in Germany and from where

²⁹² ALKOUSSA, R. (2018): "Germany's Seehofer under fire over deportation of suspected former Bin Laden bodyguard", *Reuters*, 17 July, 2018: <https://www.reuters.com/article/us-germany-security/germanys-seehofer-under-fire-over-deportation-of-suspected-former-bin-laden-bodyguard-idUSKBN1K71VK>.

²⁹³ BAMF (2018): *The stages of the German asylum procedure*, pp. 24 y 25: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Broschueren/das-deutsche-asylverfahren.html>.

²⁹⁴ This can be extended up to 12 months (Residence Act (AufenthG): Chapter 5.2., Section 62 (4): <https://germanlawarchive.iuscomp.org/?p=1464>).

²⁹⁵ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 79: <https://www.asylumineurope.org/reports/country/germany>.

²⁹⁶ Pro Asyl (2019): "Das »Geordnete-Rückkehr-Gesetz« ignoriert rechtsstaatliche Grundsätze": <https://www.proasyl.de/news/das-geordnete-rueckkehr-gesetz-ignoriert-rechtsstaatliche-grundsaeetze/>.

²⁹⁷ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 79: <https://www.asylumineurope.org/reports/country/germany>.

²⁹⁸ *Ibid.*, p. 79.

²⁹⁹ These detention centres are in Baden-Württemberg, Bavaria, Bremen, Lower Saxony, Northern Rhine-Westphalia and Rhineland-Palatinate. In addition, deportations can be carried out from the airport of Frankfurt am Main in Hesse and from the airport of Hamburg.

³⁰⁰ ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 79: <https://www.asylumineurope.org/reports/country/germany>.

³⁰¹ HAUSWEDELL, C. y AHMADI, N. (2018): "Sharp increase in refugee suicides in Hesse, Germany", *Infomigrants*, 15 May, 2018: <http://www.infomigrants.net/en/post/9233/sharp-increase-in-refugee-suicides-in-hesse-germany>.

most deportations are carried out³⁰². Inally, the suicide of a Georgian national in a detention centre prior to being deported in the early summer of 2018 in the state of Northern Rhine-Westphalia has opened up a political debate questioning the conditions in these centres, especially for people with psychological problems³⁰³.

Due to this, it is believed that the German system for deportations is not working because of the numerous obstacles that appear on carrying them out, such as mutiny by the asylum applicants in the centres and confrontation with the police, applicants fleeing³⁰⁴ and difficulties in achieving travel documents from the countries of origin³⁰⁵. There is also the rejection of this type of penalty measure by citizens in general and civil society, an example of which is the refusal by many aeroplane pilots to take off on flights in which people are travelling who must be deported to their countries of origin such as Afghanistan. According to the government, 222 expulsions were stopped in 2017 due to the pilots' refusal to fly³⁰⁶. The ineffectiveness of deporting people is recognised by all of the parties involved and has become a national debate, but there is no consensus about how the system should be reformed. Some politicians believe that the main problem is the lengthy time for processing the deportation, which is extended when the person appeals to the courts against a rejection of protection or an expulsion order; but there is also talk of intentional sabotage by "an aggressive anti-deportation industry"³⁰⁷. It should be underlined that several organisations from civil society have reported cases of police violence in group deportation procedures carried out between June and November 2018, with testimonies documenting "police brutality, physical restraints, separation of families, humiliating treatment and the use of sedative medication"³⁰⁸.

Lastly, it should be mentioned that both the national government and the federal states have numerous support measures for voluntary return, such as the humanitarian aid programmes REAG (Reintegration and Emigration Programme for Asylum-Seekers in Germany) and GARP (Government Assisted Repatriation Programme)³⁰⁹. Furthermore, in mid-2018 the German government approved an aid programme for people returning voluntarily to 10 countries of origin in North Africa, the Balkans and the Middle East, which involved the search for employment and creation of companies, to the tune of €227 million a year³¹⁰. Private initiatives have also joined in the drive for containing migration and returning migrants, such as one by a German NGO based in Lebanon, which has launched a project³¹¹ with which it intends to contain migration movements towards Europe and protect the continent's borders via aid in the place of origin. The project has received numerous criticisms³¹².

³⁰² Idem.

³⁰³ SANDERSON, S. (2018): "Suicide of migrant highlights 'catastrophic' circumstances in deportation centers", *Infomigrants*, 7 June, 2018: <http://www.infomigrants.net/en/post/9759/suicide-of-migrant-highlights-catastrophic-circumstances-in-deportation-centers>.

³⁰⁴ Over half the expulsion orders issued in the first five months of 2018 could not be implemented because the people were not found (Deutsche Welle (2018): "Germany: more than half of deportees go missing", *Deutsche Welle*, 15 July, 2018: <https://www.dw.com/en/germany-more-than-half-of-deportees-go-missing/a-44685328>).

³⁰⁵ There were 65,000 cases in 2017, compared to 38,000 in 2016, in which the necessary travel documents could not be obtained for people who were to be repatriated (MACGREGOR, M. (2018): "Germany's deportation dilemma", *Infomigrants*, 24 May 2018: <http://www.infomigrants.net/en/post/9305/germany-s-deportation-dilemma>). Occasionally, the documents have been destroyed on the way or confiscated by traffickers, in which case the only alternative is to cooperate with the countries of origin to carry out the deportation. Therefore, Germany is in constant negotiation for readmission agreements and protocols with different countries of origin.

³⁰⁶ SCHUMACHER, E. (2017): "German pilots refuse to carry out deportations", *Deutsche Welle*, 7 December, 2017: <https://www.dw.com/en/german-pilots-refuse-to-carry-out-deportations/a-41638832>.

³⁰⁷ MACGREGOR, M. (2018): "Germany's deportation dilemma", *Infomigrants*, 24 May 2018: <http://www.infomigrants.net/en/post/9305/germany-s-deportation-dilemma> (traducción propia).

³⁰⁸ ECRE (2019): "Germany: Violence in Deportation Procedures": <https://www.ecre.org/germany-violence-in-deportation-procedures/>.

³⁰⁹ BAMF (2016): *The Federal Office and its Tasks*, p. 24: <http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/Flyer/bundesamt-und-seine-aufgaben.html>.

³¹⁰ PELZ, D. (2018): "Germany claims success with program to support migrant returnees", *Deutsche Welle*, 22 July, 2018: <https://www.dw.com/en/germany-claims-success-with-program-to-support-migrant-returnees/a-44774000>.

³¹¹ Funded by private donations from individuals.

³¹² PIKULICKA-WILCZEWSKA, A. (2018): "Why has an anti-immigrant 'extremist' NGO set up in Lebanon?", *Al Jazeera*, 6 June, 2018: <https://www.aljazeera.com/indepth/features/anti-immigrant-extremist-ngo-set-lebanon-180602221416324.html>.

7. Conclusiones

- Since 2015, Germany has been one of the main countries receiving refugees in the EU and in the world. To respond to this situation, just like other European countries, different reforms have been made to the German laws on asylum, residency and integration in recent years. These have led to cutbacks in rights for migrants and refugees, as well as greater border control.
- The “expulsion prohibition” aspect of the German Residence Act means that for humanitarian reasons a person cannot be returned to their country of origin. This aspect and the possible inclusion of a residence permit in the Immigration Act for those who are denied international protection but cannot be returned to their country of origin due to danger for their lives, may guarantee that people without international protection do not end up in a completely unprotected situation.
- The main challenges faced by the German asylum system are found in the lack of free, public assistance when registering, formalising and examining the asylum application (except in the airport procedure). If there is an appeal, legal aid can be requested but it is rarely granted. Only NGOs provide free legal advice services, though they are not available in all of the reception system’s accommodation facilities.
- There is a list of “safe origin countries” in German legislation, which implies a risk that the assessment of international protection applications from people coming these countries will be carried out based on criteria of nationality and not on individual circumstances.
- In recent years, Germany has faced a notable increase in international protection applications. This has led to a lack of sufficient human resources, with thousands of applications pending a decision (58,538 at the end of 2018). Faced with this situation, the Federal Office for Migration and Refugees (BAMF), which is responsible for deciding on asylum cases, has doubled its staff, who are currently addressing the challenge of ensuring they have suitable training.
- The appeals against rejection of some kind of protection, which may be lodged during a two-week period in local administrative courts, have the effect of automatic suspension of the order to leave the territory that accompanies the BAMF’s negative decision. However, people whose applications have been rejected as manifestly unfounded or inadmissible have a shorter period to launch the appeal (one week), and it does not have the effect of suspending the order. The short deadlines to lodge the appeals means that in practice is very difficult to get effective access to legal aid (public or private).
- As for the reception system, it is important to point out one positive aspect, which is that it guarantees accommodation, maintenance and healthcare (though limited) for as long as the asylum process lasts. It does not require immediate departure from the centre after protection is granted (people benefiting from international protection can stay in the reception facilities until they find a suitable place to live, for which they can also count on the help of social services and NGOs). However, it is also important to highlight that one of the main challenges in the reception system is the lack of common standards to regulate the different reception centres. Added to this, the inclusion activities are very limited and are normally made available to applicants by NGOs. Furthermore, access to integration courses for asylum applicants is not automatic.
- As regards people in a special situation of vulnerability, it is significant that despite the lack of protocols for identifying people with special needs, the BAMF has specialist officers for cases of people persecuted for reasons of gender, victims of torture and trauma, and unaccompanied children, though their availability is not always guaranteed. As for unaccompanied children, it should be highlighted that the bone test is not applied as a general rule and there are specific reception facilities for such children. The main challenge is the lack of sufficient guardians to respond

to the increase in unaccompanied migrant children seen in recent years. As for cases of human trafficking, the big challenge is to identify and protect the victims, but there are no specific reception resources for them in the country. In addition to this, it should be noted that there have been cases of sexual violence registered in the centres.

- Although Germany invests in inclusion policies and has an Integration Act, there are serious obstacles in the inclusion process for asylum applicants and refugees. The first of these is access to the job market for asylum applicants, since in order to apply for a work permit they need a job offer, which is rarely given due to their temporary situation. There is also growing racism and xenophobia affecting access to employment and other basic needs such as accommodation, where there are great difficulties for people benefiting from some kind of protection in the country.

S.W.O.T. analysis of Germany's asylum system

<p>STRENGTHS</p> <ul style="list-style-type: none"> • Bolstering the BAMF's human resources³¹³ since 2018. • Gender, gender identity and sexual orientation included in the Asylum Act as reasons for persecution. • Prevalence of visual observation as opposed to bone examination in determining unaccompanied minors' age and effective protocol for reception and assigning guardians. • Advice for access to employment from the start of the asylum procedure and possibility of work for asylum applicants after three months residing in the country. • Suitable language courses (literacy and for professionals) for refugees and asylum applicants who are nationals from countries with high protection rates. • Greater commitment to resettling refugees. • Marginal use of detention with deprivation of freedom for asylum applicants. 	<p>OPPORTUNITIES</p> <ul style="list-style-type: none"> • Consolidation of specialist training for profiles in vulnerable situations within the BAMF. • Solidarity from citizens and support movements for refugees. • Strong organisations from civil society committed to migrants and refugees' rights. • Possibility of introducing work permits for asylum applicants denied protection whose integration process is considered to be successful. • Reconversion of existing spaces/buildings to strengthen the asylum system if necessary.
<p>WEAKNESSES</p> <ul style="list-style-type: none"> • Existence of a list of "safe countries of origin" • No free, public legal aid for asylum applicants (except in the procedure at airports and during appeals, prior application for and approval of legal aid). • Short deadlines to lodge appeals (1 to 2 weeks). • Not all appeals in the courts have the effect of suspending the expulsion order. • Restriction of freedom of residence and movement for asylum applicants and refugees. • Lack of common standards in the way reception and implementation of integration policies work among different federal states. • Lack of federal protocols for identifying vulnerabilities. • Integration courses not accessible for asylum applicants (nationals from countries with low protection rates are usually excluded). • Healthcare for asylum applicants limited to treatment of acute pain (but comprehensive for women during pregnancy and postpartum). 	<p>THREATS</p> <ul style="list-style-type: none"> • Racist and xenophobic discourses by leading politicians and the presence of anti-immigration parties in regional parliaments. • Attacks on migrants, asylum applicants and refugees in the country. • Criminalisation of refugees in the media. • Growing differences in reception between federal states. • Abuse of deportations in the case of young men from Afghanistan. • Extension of the list of "safe countries of origin". • Perception by citizens as being one of the EU countries that already complied with its duty to receive asylum applicants in 2015-2016 and that it is now the turn of other countries.

Source: the authors.

³¹³ Federal Office for Migration and Refugees responsible for examining and taking the decision on international protection applications in the country.

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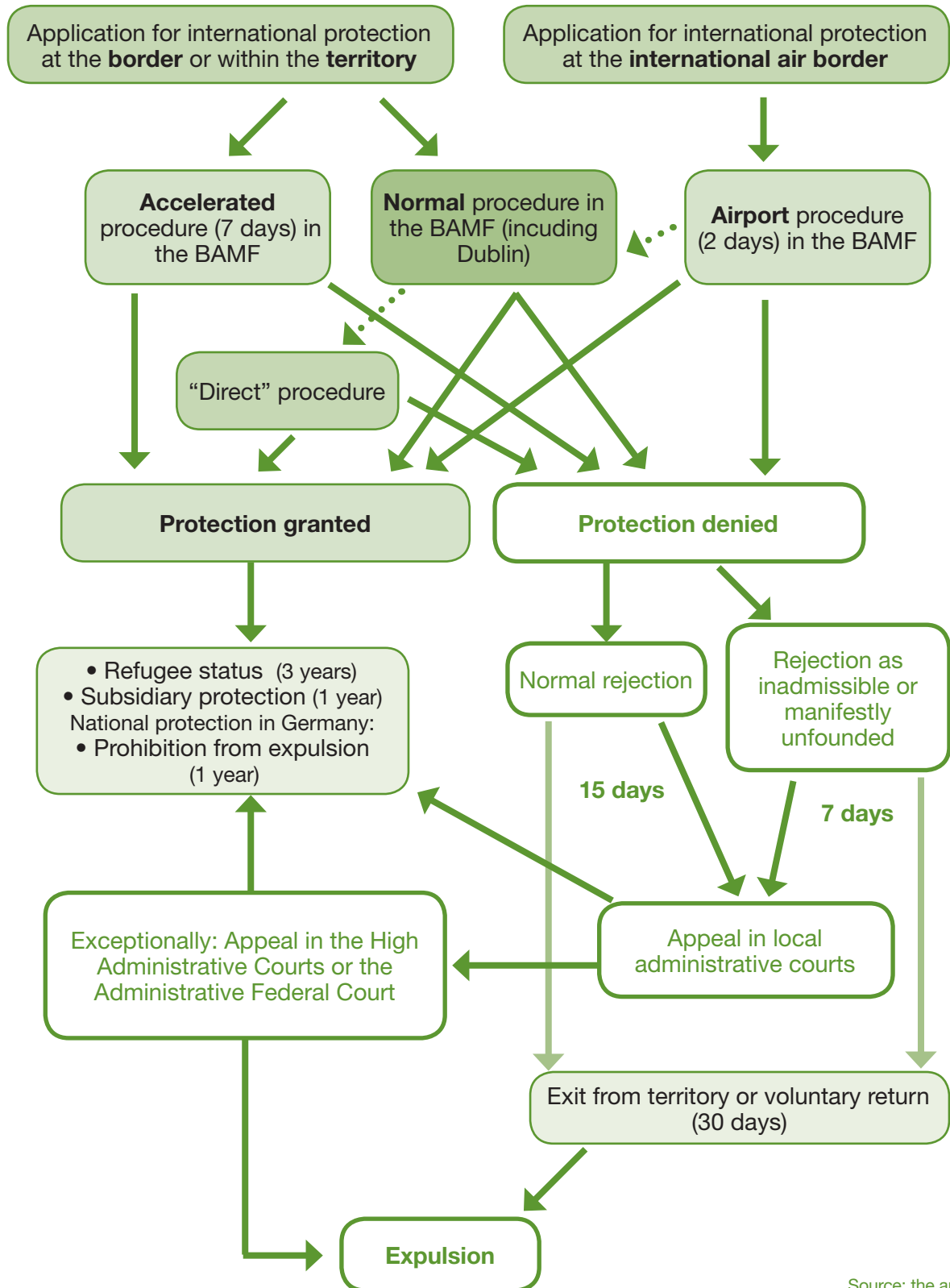
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Annex I: The international protection procedure in Germany



Annex II: Content of international protection in Germany

	Refugee status	Subsidiary protection
Residence permit	Valid for 3 years (renewable for a permanent permit in certain cases) ¹ .	Valid for 1 year (renewable for 2 periods of 2 years) ² .
Family reunification	<p>Exempt from requirements regarding income and sufficient space to accommodate family members if requested within the first three months after protection is granted. Includes:</p> <ul style="list-style-type: none"> - Spouse or registered partner. - Unmarried minor children under 18 years of age. - Father and/or mother, if neither of the two reside in Germany, when dealing with an unaccompanied minor. <p>In the case of family members of beneficiaries of subsidiary protection, there is a monthly limit of 1,000 visas a month via the family reunification channel. Any of the family members are granted a residence permit for a minimum period of one year and a maximum equal to the validity of the residence permit of the family member benefiting from some kind of protection in Germany.</p>	
Travel documents	Document issued together with residence permit, valid for 3 years.	If they do not have or cannot get a passport from their country, they may obtain a travel document valid for 1 year (renewable for 2).
	This document does not allow the holder to travel to the country on which their fears are based. Failure to comply with this geographic limitation implies withdrawal of the protection.	
Accommodation	They may stay in a group accommodation centre until they find private housing.	
	They may request a housing solution from the local welfare office or the local job centre (normally a rented room or flat paid for by the aforementioned institutions).	
	They may resort directly to the private housing market.	
Social security	Access to social rights under the same conditions as nationals, including health insurance, family and housing benefits, minimum wage and unemployment benefit.	
Education	Obligatory from 6 to 16 years of age. They have the right to enroll in professional training courses and in the university system if they have the requirements to do so. They may receive scholarships, grants and benefits for study and maintenance in the same conditions as German citizens.	
Employment	Access to the job market in the same conditions as nationals.	

(1) When a person shows that they are integrated in the society, in other words: they have reached an advanced level of German, they have sufficient means to cover most of their living costs and have accommodation with enough space for themselves and their family members. After five years of residence in the country (including the duration of the asylum process), they may apply for this permanent residence permit with the same requirements except for language, for which a basic level is sufficient.

(2) After five years of residence in the country (including the duration of the asylum procedure), they can apply for a permanent residence permit by complying with these requirements: economic means to cover complete costs of living, sufficient accommodation for themselves and their family members, and evidence that they have been contributing to a pensions system for at least 60 months (which usually means having worked with a certain level of income for 60 months).

Source: ECRE (Ed.) (2018): "Country report: Germany", *Asylum Information Database*, p. 90-106.

