Chapter 12
Migrants' Access to Social Protection in Germany

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12.1 Overview of the Welfare System and Main Migration Features in Germany

12.1.1 Main Characteristics of the National Social Security System

The German social protection system can be characterized as a two-pillar system. The first pillar is a social insurance system financed by contributions, while the second one consists of a variety of tax-financed welfare programs. The contributions to and the benefits from the institutions of social insurance make up the larger part of social protection finances. In 2017, public social expenditures in Germany reached 29.6% of the Gross Domestic Product (GDP), with 57% financed by social insurance contributions. Due to federal subsidies, the expenditures of social insurance exceed contributions by more than 100 billion €, so that total expenditures of social insurance make up two thirds of social protection (19.9% of GDP) (BMF 2019a, b).

Membership in and contributions to social insurance are linked to labour earnings and occupational status. The system covers the vast majority of labour force participants and their dependent family members. This infamous "Bismarckian system" goes back to the 1890s when social health insurance, disability insurance and (less known, but very importantly) job-related injury insurance were introduced within a few years. This system originally covered only blue-collar workers, but it was later extended to cover also white-collar workers. Important exceptions are professional employees (lawyers, physicians, architects, engineers) who can opt out

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of public pensions and civil servants who are directly protected by their public sector employer. Unemployment insurance was introduced in the late 1920s, whereas long-term care insurance was added in the 1990s. Thus, the German social insurance system currently comprises five types of institutions for public pension, health care, unemployment, long-term care insurance and work-related accidents.

One important feature of social insurance are contribution ceilings that limit contributions. Opting out of social health and social long-term care in favour of a private insurance is feasible for high-wage earners. In contrast, opting out of public pensions (except for professional occupations) and unemployment insurance is not allowed. However, an upper ceiling limits the contribution and benefit levels. As a general rule, social insurance benefits are conditional on specific minimum periods of contributions ("waiting time"), and do not depend on claimants' citizenship. However, restrictions to receiving benefits outside Germany may apply even for German nationals.

German welfare programs deliver basic protection independently of former contributions or occupational status. The main programs include child allowances or tax deductions (whichever yields the highest amount – *Bundeskindergeldgesetz*, 29.11.2018); the minimum income benefits for labour force participants (*Grundsicherung für Erwerbsfähige* according to *Sozialgesetzbuch* – SGB II, 18.12.2018) and for non-participants (*Sozialhilfe* according to SGB XII, 10.07.2018); and housing allowances (*Wohngeldgesetz*, 11.11.2016). Child allowances are rather universal and relatively high compared to other European countries. They are paid to European Union (EU) and European Economic Area (EEA) citizens who reside in Germany even if the child is living in other EU countries. Minimum income benefits and housing allowances require residency and for non-nationals, these benefits may be contingent on additional requirements (e.g. type of residency permit, labour force status). Thus, eligibility for tax-financed social protection is somewhat more restrictive.

12.1.2 Migration History and Key Policy Developments

Migration has always been a defining part of the German history – as is also the case for other European countries. In modern times, immigration played an important role in the late industrial revolution, namely in the mining and steel industry. After World War II, Germany recruited millions of so-called "guest workers", first from Italy, then from other southern European countries (Greece, Spain, Yugoslavia), and later from Turkey. Following the first oil shock and the rising unemployment, the active recruitment policy of foreign workers was abandoned. From the 1970s on, family migration as part of the reunification of families played a major role and became the main route of migration to Germany (SVR 2019, p.10).

In the early 1990s, immigration reached very high levels due to the collapse of Yugoslavia and the civil war. In 1992, 1,5 million people migrated to Germany and net migration totalled 780,000 (Fig. 12.1). Net migration fell below 100,000 in

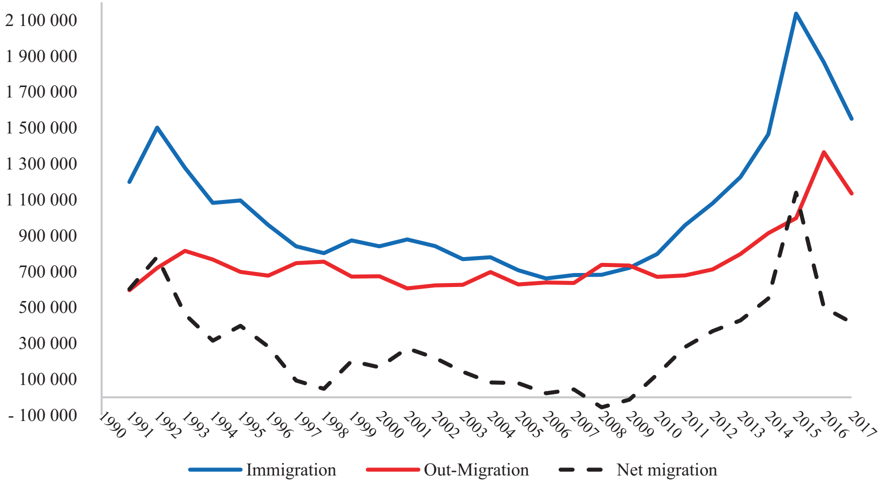

Fig. 12.1 Evolution of migration, 1991–2017. (Source: Federal Statistical Office 2019)

2004, and it even became slightly negative in 2008 and 2009. After the financial crisis and the full integration of Romania and Bulgaria (first with limited and since 2014, with free movement of labour), the inflows started to increase again, exceeding one million people since 2012. The so-called "refugee crisis" brought unparalleled inflows in 2015 and out-migration also reached one million or more since 2015. After the exceptional year 2015, net migration started to fall to the levels before the refugee crisis, albeit still in the range of 400,000 per year or 0.5% of the total population and well above the average of the last three decades.

Currently, Germany hosts around 19,6 million people with a migration background, of whom 10,9 million (around 13% of the total population) are foreigners (Federal Statistical Office 2019 and BAMF/BMI 2019). Since 2017, immigration has been (again) predominantly driven by European inflows. According to the Federal Statistical Office data (2019), two thirds of migration inflows originate from European countries, with 50% coming from EU28 (Table 12.1 in Appendix). The largest groups of EU nationals in 2017 came from Romania, Poland, Croatia, Bulgaria, Italy, and Greece. Still an important group are Turkish nationals who are subject to a special treaty.

Emigration of German citizens was very high during the nineteenth century, reaching about 5,5 million emigrants to the United States of America (USA) between 1816 and 1914 (SVR 2015). Emigration peaked in the first half of the twentieth century due to the first and second World Wars, with strong remigration afterwards. Since about 50 years, emigration of German citizens is constantly higher than re-migration.[1] The cumulative effect reaches about 1,5 million people since 1967 (SVR 2015). The main destination in recent years has been Switzerland,

[1] These numbers exclude the immigration of "native" Germans from the former USSR.

followed by the USA and Austria. While in the 1950s two-thirds of German emigrants moved to English-speaking countries (USA, Canada, Australia, and New Zealand), today, two-thirds of German emigrants stay within Europe. Mobility of emigrants is very high: 60% of German emigrants have lived in another country before. The number of persons born[2] in Germany who live abroad has been estimated to around four million (UNDESA 2013, cited by SVR 2015, see Ette and Sauer 2010 for mobility of skilled).

The recent waves of migration triggered several legal changes. First, the immigration during the Balkan war led to the enactment of a special minimum income benefit law for asylum seekers in 1993 (*Asylbewerberleistungsgesetz*). Until 1993, asylum seekers were granted benefits under the regular welfare law (*Sozialhilfe*). The new law was ruled as unconstitutional by the German Constitutional Court in 2012, due to evident underfunding of refugees; and was thus amended in 2015.

A package of new laws on immigration took effect in 2015 and replaced several regulations on immigration that dated back to the 1960s. The new laws were necessary in order to adopt European law. First, a new law on migration and residency for non-EU nationals (*Aufenthaltsgesetz*[3]) regulates entry into and exit from Germany, temporary and permanent residency permits, working permits, and new rules concerning the Geneva refugee convention. Second, a new (German) Freedom of Movement Act (*Freizügigkeitsgesetz*/EU[4]) regulates the rights of EU citizens according to the Freedom of Movement Directive 2004/38/EC. The package also included changes to the Asylum Law (*Asylgesetz*) and the law on the benefits for asylum seekers (*Asylbewerberleistungsgesetz*). The former regulates the conditions of entry, residency and exit of asylum seekers during the approval process, whereas the latter regulates the monetary and in-kind benefits for this group. The new package was a compromise between the notion of Germany as an immigration country and the need to stabilize the population given demographic aging and labour shortages. On one side, the new legislation facilitated the immigration of students and academics. On the other side, it tried to prevent the so-called "welfare migration" by limiting the influx of low-skilled workers from non-EU countries. For non-EU workers without an academic degree, it is almost impossible to get a temporary residency permit. The main routes are family reunification or asylum.

In response to the inflow of persons from EU countries (especially Romanians and Bulgarians), several amendments have been enacted recently that restrict or clarify migrants' access to the German social protection system. Within Germany and in judicial decisions, the access to minimum income benefits has been disputed,

[2] This number also includes second-generation migrants with a foreign passport.

[3] *Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet*, 30.07.2004, last amendment 12.07.2018. *https://www.gesetze-im-internet.de/aufenthg_2004*

[4] *Gesetz über die allgemeine Freizügigkeit von Unionsbürgern*, 30.07.2004, last amendment 20.07.2017. *https://www.gesetze-im-internet.de/freiz_gg_eu_2004/*

especially for EU nationals. According to recent legislation,[5] EU citizens cannot apply for minimum income benefits as unemployed directly after arrival to Germany. While job search is allowed for 3 months, EU nationals are required to fund their living expenses with own resources. However, receiving minimum income benefits is still possible without further restrictions if the applicant works and receives a "considerable" wage. After 1 year of legal employment, unemployment benefits and minimum income benefits are granted in the same way as for national residents. The minimum income benefit is restricted to 6 months for employment of less than 1 year.

12.2 Migration and Social Protection in Germany

This section examines the main eligibility conditions for accessing social benefits for national residents, non-national residents and persons residing abroad. The latter group consists of German citizens and of foreigners with a German social insurance record. In this sub-section, we focus on general rules before turning to the specifics of the five main fields of social protection.

Social insurance in Germany is linked to the labour market status and type of occupation. It is mandatory for the largest part of the German labour force, namely dependently employed except for civil servants. Self-employed can opt for social health insurance (restrictions apply to reduce risk selection) and public pensions (excluding disability benefits). Social insurance contributions on earnings above 850 € are formally shared between employer and employee. The aggregate rate is about 40% of gross earnings. Special rules and rates apply for so-called "mini jobs" (below 450 €) and "midi jobs" (between 450 and 850 €). Receiving unemployment or pension benefits requires some kind of waiting time. Citizenship does not play a role per se, but – in the case of non-EU citizens – it may be important in order to get a work permit and thus employment in the formal sector. Thus, the main obstacle lies in the immigration laws that restrict entry and work permits.

Receiving social insurance benefits abroad (exportability) is usually restricted, depending on the type of insurance and residency abroad (temporary or permanent). Details on the different parts of social insurance are explained below. Again, German citizens abroad are treated in the same way as foreign citizens, because the right to receive insurance benefits depends on former contributions and not on citizenship.

Eligibility for tax-financed benefits may be more restricted for non-German residents. Notably, EU and non-EU citizens have to prove some minimum employment duration before receiving full minimum income benefits. Residency in Germany plays an important role for tax-financed benefits. Once a permanent residency is established abroad, tax-financed benefits are withdrawn. Some exceptions may apply, e.g. for dependent children who visit a foreign school or college.

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[5] *Gesetz zur Regelung von Ansprüchen ausländischer Personen in der Grundsicherung für Arbeitssuchende nach dem II.Buch SGB und in der Sozialhilfe nach dem XII.Buch SGB*, 22.12.2016

The rest of this section is divided into five sub-sections covering the five core policy areas of social security. For each area, we discuss the eligibility conditions applicable for citizens and non-citizens, by explaining how the beneficiaries are defined in national legislations, which are the qualifying periods of insurance, residence, or age for accessing benefits, if certain schemes are means-tested or granted on a universal basis, the general procedure for submitting the claim, waiting periods, and duration of benefits. Unemployment, health, and pension benefits are usually based on social insurance rights (UB, medical treatment, and public pensions). These benefits may be complemented by "last resort" minimum income benefits (unemployment assistance ALG2, basic income for elderly). Family/child benefits and minimum income benefits are also discussed below.

12.2.1 Unemployment

The German unemployment insurance covers dependently employed (irrespective of nationality) who are working in Germany or who are temporarily working abroad for their German employer as posted workers (SGB III, chapter 2). One exception are civil servants who are covered by their public employer. The insurance not only covers unemployment benefits, but also offers job search and active labour market policies (e.g. training, subsidized work according to SGB III, chapter 3).

After 12 months of contributions, a person who becomes unemployed is eligible for 6 months of unemployment benefits (SGB III, chapter 4). The benefit duration increases with age and duration of contributions to a maximum of 24 months (age 58+ and 48+ months of contributions). The net replacement rate is 60% for persons without children and 67% for persons with at least one child. Weekly hours are limited to 15 in order to qualify as unemployed and earnings above 165 € are deducted from the benefit. No other means tests apply. Unemployed persons are also covered by the other branches of social insurance (pensions, health, long-term care) during the receipt of unemployment benefits.

Active search for work and timely cooperation with the labour agency (*Arbeitsagentur*) is a basic requirement (SGB III, chapter 8). Cooperation is usually proven by showing up at the agency and by accepting and conducting job interviews. In order to comply with these rules, an unemployed person has to show up on short notice. Thus, residency in Germany or in a neighbouring country close to the border is a fundamental requirement. Unemployed have to inform the agency if they intend to go on holidays (maximum 3 weeks).

Unemployment benefits are exportable in compliance with EU Directives or bilateral agreements (BA 2019) in the following cases:

- Cross-border commuters who are living in Germany and are insured in a neighbouring country receive German unemployment benefits according to the residency principle.

- Cross-border commuters who are living in the EU and have been working in Germany receive unemployment benefits in their country of residence.
- EU citizens who receive German unemployment insurance benefits can apply to move to another EU country to actively search for work for a maximum of 6 months. Public pension, social health and long-term care insurance provide coverage according to the German rules. However, the means-tested unemployment assistance according to SGB 2 (ALG2) is excluded for persons who do not reside in Germany.
- A bilateral unemployment insurance agreement dating back to 1968 between Yugoslavia and Germany is still in force (except for Slovenia and Croatia) and it allows exporting eligibilities from one state to another.

If unemployment benefits and other income sources fall short of a household's minimum income level, the household is eligible for additional minimum income support according to SGB II (basic income for labour force participants). Since eligibility for unemployment benefits already requires a waiting time (12 months), the restrictions in place for foreigners on temporary residency permits do not apply.

12.2.2 Health Care

Social health insurance (SHI) covers 88% of the German population (BMG 2019a, b). Dependently employed (excluding civil servants) with compulsory membership (SGB V) constitute the main group. A peculiarity of the German SHI is that dependently employed are allowed to leave the SHI if their gross earnings exceed 5062.50 € per month in 2019. Workers stay in the compulsory SHI after retirement. Several other groups are in the SHI by law: unemployed, farmers, artists, journalists, and those who do not have any other health insurance. Other persons can join the SHI as voluntary members under some conditions that try to limit negative risk selection into the SHI. For instance, privately insured – in general – cannot opt for SHI.

The SHI offers two main benefits: in-kind medical treatment and sickness pay after more than 6 weeks of sickness leave (approximately 80% of former net earnings[6]). Consulting a physician requires an insurance card. Reimbursement of service providers is organized centrally per quarter by the organization of physicians or by hospitals based on a point system. This has important consequences for exportability, since foreign systems follow different rules. Persons who are insured in the

[6] The employer has to pay the regular wage for the first 6 weeks of sickness. After 6 weeks, the SHI pays a sickness benefit of about 80% of the last net wage. This may be replaced by disability insurance benefits if the worker cannot start working after completion of medical treatment (and the minimum contribution period of 5 years in the pension system is fulfilled). The same rules apply for nationals and foreigners.

German SHI and who are eligible for treatment in EU/EEA countries will receive medical treatment according to the rules of the foreign country (GKV-Spitzenverband 2015, 2016).

Temporary Stay Abroad

For the EU/EEA (including Norway, Iceland, Liechtenstein and Switzerland), a German resident (citizen or foreigner) should use the European Health Insurance Card (EHIC) for treatment abroad. However, medical treatment is restricted to necessary emergency treatment. For other countries, a private health insurance policy is highly recommended, since physicians and hospitals in many countries demand direct payment, and (full) reimbursement in Germany may be refused by the German SHI. Cash transfers (e.g. sickness pay) are not directly affected. However, workers may have to show up in person for examination during sickness leave. For persons on sickness leave, this excludes temporary stays abroad for practical reasons.

Residency Abroad

In general, moving permanently abroad terminates membership in the German SHI, since the conditions for insurance in Germany are not met, e.g. because a worker becomes eligible for health insurance in the destination country. Thus, health insurance follows residency. Moreover, the insurance of family members will also follow the rules in the country of destination. An exception are cross-border commuters, posted workers, and retirees who receive only German pensions. Retirees can keep their German SHI after moving to EU/EEA (including Switzerland), provided they have no claims to social protection in the foreign country. In this case, SHI follows the pension insurance. Retirees can apply for an E121 or a S1 card that allows full treatment in the country of residence according to the rules of this country. Retirees keep their German Health Card and can return to Germany temporarily or permanently for treatment. Retirees who move to a non-EU/EEA country lose protection by their German SHI and have to buy another form of health insurance – although they can keep their German public pension.

12.2.3 Pensions

The German public pensions are financed in a pay-as-you-go system and are regulated in social law book VI (SGB VI). Dependently employed in Germany – except civil servants – pay mandatory contributions on labour earnings (shared between employer and employee). The contribution rate in 2019 is 19.3%. Posted workers are insured in their country of origin (location of initial employment). Cross-border commuters are insured in the country of employment.

All residents in Germany who are not mandatorily insured are allowed to pay voluntary contributions. The same holds for German citizens living abroad and for EU citizens living abroad who have at least contributed once to the German public pension system. Non-EU citizens also have the right to pay voluntary contributions if they reside in the EU and have a German public pension record.

A minimum waiting time of 5 years applies in order to qualify for pension benefits. It can be fulfilled by regular contributions (mandatory or voluntary) or by special credits, e.g. for children. Employment periods in different EEA countries are added up towards the waiting time. The pension level is calculated using the sum of earnings points. Earnings points are credited to the individual pension account based on the level of annual earnings relative to average earnings. One year of average earnings yields exactly one earnings point. The sum of earnings points over the whole lifecycle is proportional to the pension level. As in the other areas of social insurance, nationality does not play a role in calculating pensions. Moreover, according to EU rule, German pensions are internationally transferable. The beneficiary is free to move abroad without any reduction in pension benefits.

The public pension insurance offers a variety of benefits: old-age pensions, disability pensions, and survivor pensions. Moreover, the German public pension insurance offers rehabilitation treatment for persons who are at risk of becoming disabled. The standard retirement age has gradually shifted up to the age of 67, starting with cohort 1947 (age 65 + one month) and ending with cohort 1964 (age 67). If a pension starts before the standard retirement age (maximum of 3 years early), it is permanently reduced by 0.3% for each month before the standard age. Later retirement leads to a bonus of 0.5% per month. Disability pensions have no age limit and are typically used before age of 60. The average age of disability retirement in 2018 was 52.2 (*Deutsche Rentenversicherung* DR 2019). In case of disability, the sum of earnings points is calculated as if the disabled person had been working until the age of 62. The actuarial adjustment is limited to 10.8%. Disability pensions of males who retired in 2018 were on average 30% lower than those of males who claimed an old-age pension (DR 2019). Disability is thus an important source of poverty.

In the area of pension insurance, exportability is of special importance, since pensions are based on the entire working life and the present value of pensions easily exceeds 100,000 € for an individual. Export of pension claims has at least two dimensions: the cumulation of pension claims of different jurisdictions due to international mobility during the working life and the mobility of retirees. Multilateral agreements facilitate both types by reducing the complexity and risk of international mobility (in compliance with EU Directives 883/2004 and 987/2009). These rules cover EEA citizens who have been insured in EEA countries or Switzerland (DR 2017). The rules also apply to non-EEA citizens in the EU, excluding Norway, Iceland, Liechtenstein and Switzerland.

EU Directives apply to all persons who have acquired pension claims in the German public pension system, irrespective of citizenship. The same holds for persons who have collected claims in the other pension systems, e.g. special pension plans for professional occupations, civil servants, farmers (DR 2017). Similar rules hold for survivor pensions.

Special agreements exist, namely with Turkey and former Yugoslavia due to the longstanding migration relations. Migrants from Turkey constitute the largest minority in Germany and the bilateral agreement with Turkey dates back to 1964, although it was modified in 1984 (DR 2014). The agreement regulates eligibility in a similar way as in EU law. Pensions in Turkey and Germany can be accumulated without reducing the eligibility in the other country. The retiree is free to move internationally and the health insurance follows the pension insurance.

12.2.4 Family Benefits

Child and family benefits can be found in almost all areas of social protection ranging from minimum income benefits to social insurance. For instance, parents receive credits for children in the public pension insurance; children and spouses without own income are insured without additional contribution in the social health and long-term care insurance; unemployment benefits are higher for parents than for those without children; and additional benefits are granted to single parents. In a comprehensive empirical study on family and child-related benefits (Prognos 2014), these benefits are estimated to have reached 125 billion € in 2010, excluding benefits that relate to marital status of another 75 billion €. Family benefits that are part of social insurance benefits are treated as described in Subsections 12.2.1, 12.2.2 and 12.2.3. Family benefits in the minimum income programs follow the principles detailed in Subsection 12.2.5 below.

The child allowance/child tax deduction is the largest single part of child benefits amounting to 40 billion €. This benefit is regulated in the income tax code (*Einkommensteuergesetz EStG* §31, §32, and EStG section X). In 2019, child allowances for the first and second child are 194 € per month, for the third child 200 € and for other children 225 €. Moreover, the income tax code grants a child tax deduction. If this generates a tax relief higher than the child allowance, the exceeding tax relief is paid out. Parents are eligible if a child is younger than 18 or if a child is younger than 25 and in secondary or tertiary education. Child allowances are paid to residents in Germany or those abroad who are fully taxable in Germany (§62 (1)).[7] Non-EU/EEA citizens are eligible depending on the type of residence permit: permanent residence permit, temporary residence permit with the right to work or study, temporary residence permit for persons who need protection. This also implies that asylum seekers during the decision process are not eligible for child allowance, although they receive benefits according to the asylum seeker benefits law (*Asylbewerberleistungsgesetz*). EU citizens can claim child allowance even if the child and one parent are living abroad. A similar situation may occur if the child studies abroad. The child allowance expires if the eligible parent leaves Germany and if unlimited income tax liability ends. It is also worth noting that tax liability in Germany does not depend on citizenship, but on residency (180 days rule) and a myriad of bilateral agreements apply.

[7] Parent benefits during the first 14 months follow the same logic of eligibility (BEEG *Bundeselterngeld- und Elternzeitgesetz*). The benefit is 67% of eligible net income or a maximum of 1800 € per month for one parent who does not work.

Maternity leave covers 6 weeks prior to and 8 weeks after the date of delivery. Full earnings are paid, and during the 8 weeks after delivery, work is strictly prohibited to protect the health of mother and child. Paid parental leave can be chosen by mother or father for a maximum of another 12 months. The replacement rate is 80% and capped at 1800 Euros per month. A total of 3 years of parental leave (with 2 years unpaid) per child are possible. No distinction is made between nationals and foreigners, although waiting periods may apply.

12.2.5 Guaranteed Minimum Resources

The German law distinguishes between several types of minimum income benefits. First, a distinction is made between labor force participants (working or seeking work) and those who are temporarily or permanently out of the labour force. *Sozialgesetzbuch II* applies to the first group, whereas *Sozialgesetzbuch XII* covers the second one. The schemes do not differ in the way the minimum income is determined. The main difference is the work requirement in SGB II.

The Basic Income for Jobseekers and Workers (*Grundsicherung für Arbeitssuchende*) applies to labour market participants and their families or other household members sharing common resources. The benefit is paid to unemployed persons who seek work or to employed persons if income (or other resources) are lower than a certain minimum income. The relevant income is the total family or household income. Dependent persons also receive benefits, labelled as *Sozialgeld*. First, the minimum income threshold is determined based on the number and age of persons in the household (*Bedarfsgemeinschaft*), (quasi)rent and other characteristics (single parents, special needs, etc.). If income falls short of the living minimum, the difference is paid out as a cash benefit. Withdrawal rates apply for labour income, rising from 0% to 100%.

Note that while EU migrants cannot collect minimum income benefits as unemployed without a "waiting period", they do receive benefits from day one on if they work and receive a "substantial" labour income (the latter is not determined by law, but by jurisdiction).

The Minimum Income for Non-Participants (Welfare or *Sozialhilfe*) is regulated in Social Law Book XII. Several categories of individuals are considered as "non-participants". These include persons beyond the standard retirement age; those permanently unable to work more than 3 h daily who are thus considered disabled; persons who are temporarily unable to work due to bad health or because they care for dependents; or foreigners with a legal residence status who are not (yet) allowed to work. The first two are eligible for MIB for elderly or disabled (*Grundsicherung im Alter und bei Erwerbsminderung*, SGB XII, chapter 4), whereas the second group is eligible for welfare (*Hilfe zum Lebensunterhalt*, SGB XII, chapter 3). The main advantage of receiving MIB for elderly or disabled is that income and wealth of parents or children of the needy person are not considered. For other Minimum Income Benefits, parents and children may have to support their needy relatives.

Benefits are adjusted to changes in income, family composition, rent, etc. Beneficiaries have to report to the local agency if their personal conditions change. Otherwise, the level of benefits is checked annually. What is considered as "minimum income" does not differ across the different types of MIB.

EU citizens who enter Germany as jobseekers or non-employed cannot claim MIB, thus being treated differently than national residents. However, employed migrants with income below the social minimum receive a supplementary MIB (as difference between own resources and social minimum) from the beginning. Moreover, after an uninterrupted employment of 1 year, EU citizens are treated like nationals regarding MIB if they become unemployed. Then, they receive MIB permanently (as long as their means fall short of their needs). If unemployment follows an employment spell of less than 1 year, MIB is paid for a maximum of 6 months. After a legal residency of 5 years, EU citizens are treated like German nationals regarding MIB. Usually, the relevant unit is the household and the eligibility of one adult extends to all family members, even if the latter are third-country nationals provided they have a legal residency permit.

In the case of non-EU foreign residents who are not asylum seekers, the basic requirement for accessing MIB is a legal residency permit. Temporary permits (e.g. *Aufenthaltserlaubnis*) specify the type of labour market activity that is allowed. This is documented on the temporary permit. Persons who are allowed to work (and their family) can receive *Arbeitslosengeld* 2 (ALG2). However, they may risk the extension of the residency permit or the application for German citizenship may be rejected or delayed. Persons with other permits (e.g. education) do not qualify for minimum income benefits, since the residency permit is conditional on having sufficient own resources. However, students are allowed to work part time to make a living. After completing the degree, academics get a special residency permit to look for a job without MIB.

The law rules out MIB for migrants who enter Germany as job seekers. Moreover, MIB is limited to the duration of the residency permit. On the other hand, permanent residence permits (e.g. *Niederlassungserlaubnis*) always include the right to work and to apply for benefits. However, they require at least a five-year legal prior residence that again is conditional on self-sufficiency. As a rule, someone who obtains a permanent residence permit has a good labour market record.

In the case of third-country nationals who apply for asylum, there is another benefit that usually grants in-kind support according to *Asylbewerberleistungsgesetz*. In many cases, the Government directly supplies housing. The level of support for asylum seekers is generally lower than in the other MIB schemes. If the application is successful, these migrants can apply for one of the regular MIBs depending on their situation, work permit or work requirements. If the asylum application has been rejected, the applicant stays in the asylum system.

Finally, it is equally important to highlight that SGB II and XII exclude benefits for persons living abroad. Also, temporary visits to foreign countries are restricted: job seekers have to apply for vacation at their job agency and retirees receiving MIB lose their benefit if they stay abroad longer than 4 weeks.

12.3 Conclusions

Migration patterns in Germany have changed considerably during the post-war period. The influx of the so-called “guest-workers” stopped during the 1970s, being replaced by family reunification. Two big crisis-driven immigration waves swept Germany, the first one after the collapse of Yugoslavia and the second one following the crises in the countries from Syria to Afghanistan. These immigration waves triggered legislative reactions aimed at reducing immigration incentives, especially in the area of asylum law. But legislation in the early 2000s (under the red-green coalition) also took a more liberal stance towards immigration of highly qualified persons from non-EEA countries and – following the EU Directives on freedom of movement – EEA citizens. As a result of European integration, migration patterns changed dramatically, with EEA countries becoming the leading source of German immigration. Moreover, EEA countries replaced the four Anglo-Saxon immigration countries as the leading destination of German emigration. Currently, about 800,000 people from other EU Member States arrive to Germany each year and about 500,000 leave Germany to reside in other EU countries. It is reassuring for economic policies that EU migrants display high levels of employment and have boosted German employment, while unemployment rates reached historic lows.

During the past decades, migration obstacles for EEA citizens have been lowered or abolished. The leading case is the social insurance system that provides social security for migrants and German citizens in a non-discriminatory way and greatly facilitates mobility for Germans and foreigners. However, eligibility for minimum income benefits is subject to restrictions for those who enter Germany without employment.

Main obstacles to immigration of non-EEA citizens still persist due to the restrictive law on temporary residence permits for workers. For this specific group of foreigners, there are basically three ways to legally enter Germany: student visas, academic credentials, or family reunification. It is very difficult to get a visa for workers without academic degrees from third countries, since it is often impossible to prove that a foreign non-academic degree is comparable to a German one. Thus, it is far more promising for persons from third countries to apply for asylum with the chance to get the permanent residence permit after several years as a tolerated migrant.

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Appendix

Table 12.1 Migration by country or region in 2017

	Immigration		Emigration		Net migration	
	All	Foreign	All	Foreign	All	Foreign
EU 28	**827.559**	**785.198**	**587.769**	**536.813**	**239.790**	**248.385**
Romania	219.989	219.319	151.810	151.028	68.179	68.291
Poland	152.522	148.582	119.098	114.029	33.424	34.553
Croatia	53.050	52.791	23.955	23.591	29.095	29.200
Bulgaria	78.347	78.020	49.321	48.871	29.026	29.149
Italy	63.495	61.167	39.246	36.959	24.249	24.208
Greece	30.586	29.786	17.415	16.725	13.171	13.061
Other Europe	**210.881**	**187.140**	**147.499**	**121.691**	**63.382**	**65.449**
Turkey	47.750	42.859	27.049	21.208	20.701	21.651
Bosn-Herz.	26.112	25.987	12.088	12.009	14.024	13.978
Africa	**66.287**	**60.913**	**37.977**	**34.024**	**28.310**	**26.889**
America	**74.129**	**54.203**	**53.222**	**35.115**	**20.907**	**19.088**
Asia/Austr	**238.243**	**220.327**	**95.453**	**82.828**	**142.790**	**137.499**
Syria	50.551	50.463	1.428	1.386	49.123	49.077
Irak	24.349	23.305	3.549	2.915	20.800	20.390
India	26.946	26.199	15.076	14.371	11.870	11.828
Total	**1.550.721**	**1.384.018**	**1.134.641**	**885.460**	**416.080**	**498.558**

Source: Federal Statistical Office (*Statistisches Bundesamt, destatis,* 2019)

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