

Law and Policy Digest

Policy and Legislation: Family Reunification of Refugees in Germany

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February 2024

This digest contains a factual summary of the relevant law and policy, followed by key points from third-party commentary and analysis.

BACKGROUND

Family reunification of refugees in Germany is regulated through the German Residence Act¹ (AufenthG) and family asylum is regulated in section 26 of the Asylum Act² (AsylG). However, if the family member applying to be reunited with a family member in Germany are inside the European Union, the family reunification is considered in accordance with the Dublin III Regulation.

Under the Residence Act, recognized refugees, and with different conditions, those under subsidiary protection, can apply for family reunification. The family member in Germany must start the application process by notifying the local authorities within the 3-month period after being granted refugee status. Missing this deadline has serious consequences such as having to provide proof of financial funds and adequate housing.

There are specific regulations for those under subsidiary protection and those for whom there is a national ban on deportation to apply for family reunification. Germany has special measures for family reunification for refugees from Syria and Afghanistan.

LEGAL and POLICY FRAMEWORK

Who can apply for family reunification in Germany depends on what protection status and residence title one has been granted.

- Those who are granted asylum or entitled to asylum or recognized as a refugee in Germany (“resettlement refugee” or a refugee under the Geneva Refugee Convention) can apply for the “privileged family reunification”³ under the German Residence Act. Requirements of application for this category of family reunification are made easier than regular family reunification.⁴ There

¹ *Act on Residence, Economic Activity and Integration of Foreigners in the Federal Territory*, (Germany), English translation found online: [Federal Ministry of Justice](#) [Residence Act]. EU legislation, particularly, EC, *Commission Directive 2003/86/E of 4 March 2004 on the right to family reunification* plays a major role in the interpretation of national law. In addition, case law of German courts and the European judiciary (the European Court of Justice and the European Court of Human Rights) is taken into consideration when examining the possibility of family reunification.

² *Asylum Act*, (Germany), English translation found online: [Federal Ministry of Justice](#) [Asylum Act].

³ “Privilegierten Familiennachzug”

⁴ Germany Federal Office for Migration and Refugees, “[Subsequent immigration to join foreign family members](#)” (26 January 2023). Effective March 1, 2024, German government will ease specific family reunification rules including those

is no need for the family member in Germany to provide proof of financial funds and adequate housing to support and host the family member.

- For someone to have this right, their asylum procedure should be finalized, and they should not have a “Duldung”, i.e. “Tolerated Stay Permit” or a suspension of deportation obligation.
- According to the Dublin III Regulation, if the family members are currently residing inside the European Union, the individual who is residing in Germany should apply for reunification without waiting to be granted legal status in Germany.⁵ Applications of the family members become considered together in the same country.⁶ If the family member in Germany has been granted refugee status, applications for family reunification both under the Residence Act and Dublin III Regulation can be submitted in parallel.⁷

Who can join a family member in Germany through family reunification?

- Spouse (who must be over 18 years old at the time of marriage), registered partner or registered same-sex partner, and underage single children.
- If the refugee is underage and single, then parents and another adult are entitled to the underage member’s custody. Parents of unaccompanied children can be reunited with the child in Germany if no other parent with entitlement to custody is living in Germany.
- On the condition that the family member in Germany has sufficient income to cover costs and has adequate living space for them, the underage siblings can join the sibling in Germany.
- Hardship case: In cases of “extraordinary hardship” (“außergewöhnliche Härte”) minor siblings and other family members can also join the member in Germany. The family members can apply for a visa⁸. However, the member in Germany needs to have sufficient funding to secure the family members’ livelihood and meet other prerequisites, and there should be an immediate danger to the family member’s life.
- Additional requirements may apply if the family link is established after flight.⁹

Requirements and procedures

that concern principal applicants who were issued a qualifying permit type such as EU Blue Card, Skilled Workers Permit or Mobile ICT Card. See [Germany: Student Visa and Family Reunification Rules to be Relaxed](#) (28 February 2024).

⁵ Diakonie Deutschland, “[Family reunification in Germany under the Dublin III Regulation: Entitlement – Procedure – Practical Tips](#)” (2022, English translation of 2nd edition).

⁶ Famile.Asyl.net, “[Möglichkeit der Zusammenführung über Relocation](#)” [Possibility of reunification via relocation]. If the family members do not meet the necessary requirements for family reunification under Dublin III Regulation, the family member can apply for relocation.

⁷ Famile.Asyl.net, “[Familiennachzug nach dem deutschen Aufenthaltsgesetz](#)” [Family reunification according to the German Residence Act].

⁸ *Residence Act*, *supra* note 1 at s 36, para 2 or 22. As of March 1, 2024, parents can apply for a family reunification permit if the principal applicant received a qualifying permit type such as an EU Blue Card or Skilled Workers Permit without the requirement of extraordinary hardship. Parents are required to obtain appropriate health insurance and sustain secure livelihood. See [Germany: Student Visa and Family Reunification Rules to be Relaxed](#) (28 February 2024).

⁹ *Residence Act*, *ibid* at s 30, para 1. For instance, the spouse must provide proof of basic knowledge of German language and must be over 18 years old if marriage took place after the flight.

- The family member in Germany needs to notify the local authorities within 3 months once granted refugee status that they want to be reunited with a family member.¹⁰ The application itself does not have to be submitted within this period.
- If the family member in Germany does not apply within three months, their application is considered a regular family reunification application, and additional criteria apply such as providing proof of seeking work¹¹ or financial funds and adequate housing. Both spouses must be at least 18 years old however they do not have to provide proof of basic knowledge of the German language.¹²
- The family members who want to join must submit their application in person to the responsible German embassy or general consulate in the country where they reside.
- The German embassy or consulate sends the application to the Foreigner's Registration Office inside Germany to decide on whether family reunification conditions are met.
- This process takes months, mostly over a year.
- In the case that the Immigration Office rejects an application for family reunification, family members who want to come to Germany can object to the decision within one month at the relevant German Embassy. If the complaint is also rejected, they will receive a Remonstrations Notice where the reasons for rejection are explained in detail. Family members can appeal against this decision to the Administrative Court in Berlin within one month (or a year if the Notice does not contain a deadline). Alternatively, the family members can directly file a complaint at the Administrative Court in Berlin within a month after the initial refusal.
- If the application is deemed successful, family members will receive a visa and once they arrive in Germany, they must apply for a residence permit for familial reasons or family asylum.

Documents and costs

- Family link is established through official documents¹³ and only if this is not possible, then voluntary DNA testing might be used.¹⁴
- Who covers the costs of required documents and family reunification procedure depends on the individual case. Only the family member in Germany can apply for compensation and they must be unable to cover the costs themselves to qualify for compensation.¹⁵
- As of April 2023, the cost of visa once the family reunification is approved is €75 per adult and half of it for minor children.¹⁶
- The family member who wants to be reunited can apply for an exemption of holding valid travel documents.¹⁷

¹⁰ *Residence Act*, *ibid* at s 29, para 2(1). This notice is called “fristwahrende Anzeige”.

¹¹ BAMF.De [subsequent immigration](#), *supra* note 4.

¹² *Residence Act*, *supra* note 1 at s 30, para 1(3).

¹³ Federal Ministry of Interior, “[Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz](#) (General Administrative Guidelines for the Residence Act),” (26 October 2009), no. 27.0.4. AIDA and ECRE, [Criteria and Conditions: Germany](#) (6 April 2023).

¹⁴ [General Administrative Guidelines](#), *ibid* at no. 27.0.5; [AIDA and ECRE](#), *ibid*.

¹⁵ [AIDA and ECRE](#), *ibid*.

¹⁶ *Residence Act*, *supra* note 1 at s 46, para 2.

¹⁷ [AIDA and ECRE](#), *supra* note 13.

Post-arrival: Residence permit or family asylum

Family members come to Germany with a visa. To obtain a long-term residence permit, they can:

- Apply for a residence permit for family reunification¹⁸ at the Immigration Office which is a quick process. Residence permits are granted with at least one year validity, and do not exceed the residence permit of the family member who applied from Germany. After three years, the residence permits of family members become no longer dependent on the family member they reunited with and can be prolonged independently.¹⁹
- Apply for family asylum²⁰ at the Federal Office for Migration and Refugees,²¹ which would grant the same status and rights as the family member who they reunited within Germany. This allows the family members to have the right to apply for family reunification as well. Moreover, family members can reside in Germany independently from their relationship to the family member they reunited with. For instance, in case of a divorce, the spouse can keep their residence permit and stay in Germany. However, it can also have downsides such as not being able to travel to home country and refugee recognition being re-examined. Spouses, civil partners, unmarried minor children, parents of unaccompanied minor refugees, and unmarried minor siblings of an unaccompanied minor refugee can apply for family asylum. Those who have a residence permit due to a national ban on deportation cannot apply.
- Family members who arrive in Germany must register at the Citizens' Office and the Immigration Office and/or the BAMF.
- Family members must register at a health insurance company and if applicable, at the Jobcenter²² or the Social Welfare Office. School-age children must be enrolled in school.

Special regulations

Those under subsidiary protection and those who have a residence permit due to a national ban on deportation are not entitled to family reunification. However, their application will be considered on humanitarian grounds²³ as stipulated in Section 22 Sentence 1 of the Residence Act\ and it is subject to discretionary decision.

Family reunification for those under subsidiary protection was suspended in March 2016. In August 2018, a new regulation on family reunification, the Act on the Reorganisation of Family Reunification with Beneficiaries of Subsidiary Protection, was issued²⁴ and the suspension ended. There is a monthly quota of 1000 visas to be issued to family members of individuals in Germany

¹⁸ [Residence Act](#), *supra* note 1 at ss 27-36a.

¹⁹ [Residence Act](#), *ibid* at s 27, para 4.

²⁰ Handbook Germany, "[Family Asylum](#)," (6 February 2023).

²¹ [Asylum Act](#), *supra* note 2 at s 26 regulates family asylum.

²² Handbook Germany, "[Jobcenter](#)" (2024).

²³ Family members must qualify for the 'humanitarian case category'. Humanitarian reasons listed in the law are separation from at least one (unmarried) child, from at-risk and sick members with serious risks to life or with serious illness, and long duration of separation of family members.

²⁴ [Residence Act](#), *supra* note 1 at s36a, para 1, sentence 4.

with subsidiary protection. However, this quota has not been reached since the launch of the new regulation due to the complicated procedure.²⁵

Other requirements:

- Marriage of a spouse to a person with subsidiary protection must take place before the person with subsidiary protection leaves their country of origin to be eligible for family reunification.
- The person under subsidiary protection does not need to provide proof of adequate housing or financial funds however, providing such proof and a good level of proficiency in the German language affects the application positively. “Integration aspects” as such and the welfare of the child may be considered in the application.
- The person who has a residence permit due to a national ban on deportation must stay in Germany for more than one year to be able to apply for family reunification.
- Those who have a national ban on deportation must provide proof of financial funds, adequate housing for the family to live in, and health insurance for all the members. The spouse or registered partner must provide proof of German language skills at least at the A1 level. Underage children do not need to know German. There are other language requirements for other family members and some exceptions to having language skills.²⁶

Special measures for Syrians and Afghans

- First and second-degree relatives of Syrians with refugee status or another legal residential status in Germany can apply for family reunification. These are regional programmes that exist for a limited time.²⁷ The family member in Germany, as a sponsor, must provide proof of financial funds to cover relatives’ cost of living. Funds can be their own sources or external sponsors.
- A similar programme exists for family members of Iraqi refugees in the Federal State of Berlin until the end of 2024.
- In the Federal State of Berlin, an accelerated procedure²⁸ exists for Syrian refugees’ family members since 15 September 2015 when the Senate Department for the Interior and Sport issued consent for the entry of spouses and underage unmarried children. The accelerated procedure speeds up the entry procedure by way of not involving the Berlin Immigration Office in the visa application procedures. Applicants from Syria can apply for a ‘short visa application’ on the web portal created by the Federal Foreign Office,²⁹ whereas family members of other nationalities must use the respective embassies or consulates’ application procedure.

²⁵ AIDA, “[Country Report: Germany, 2022 Update](#)” (April 2022).

²⁶ A child who is between 16 and 18 years old who will be joining the parent in Germany alone must provide proof of C1 level of German language. In the cases where it is not possible for the family member to learn German due to a physical, mental or psychological illness or disability or if it is not possible to take a German language certificate in the home country of the family member, the family members do not need to provide proof.

²⁷ In Federal States of Berlin (until end of 2024), Brandenburg (until end of 2023), Bremen (ended in September 2021), Hamburg (until end of November 2023), Schleswig-Holstein (until end of 2023) and Thuringia (until end of 2024).

²⁸ Landesamt für Einwanderung, “[Family reunification for refugees from Syria](#)” (ND).

²⁹ Auswärtiges Amt, “[Welcome to Germany](#)”, (2023).

- Similar regional programmes existed for family members of Afghan refugees in 2021 and 2022.³⁰ In October 2022, a reception and family reunification programme for Afghans and family members of Afghans was introduced by the Federal government. This programme has a monthly quota of 1,000 people for Afghan nationals and their family members from Afghanistan.³¹ Visas are granted to the spouses and minor children at the same time when the visa is being issued to the former local staff in Afghanistan.³² Other relatives are considered only exceptionally when the case is considered a hardship case.³³
- Family members of Ukrainians and beneficiaries of international protection in Ukraine can be granted a residence permit for temporary protection. The nationality of family members or whether they could return to their home countries does not matter. However, the family must have already existed in Ukraine. Those family members can apply for a residence permit for temporary protection under Section 24 of the Residence Act. If the family member who is entitled to international protection and temporary protection is in Ukraine, and the other family members are in Germany, the member in Ukraine can also apply for a residence permit for temporary protection.³⁴

THIRD PARTY COMMENTARY

- Long processing times are criticized by civil society organizations. Depending on the embassies, the procedure can take several months, at times taking over one year. Foreigners Office stated that a plan will be introduced to prevent long processing times.³⁵
- Long processing times were further impacted negatively by Covid-19. Between March and July 2020, several German embassies stopped processing visa applications. Those who were granted a visa for family reunification but were not able to travel were able to apply for a renewed validity of their visa after the Federal Ministry of Interior’s announcement in June 2020. Initially, the deadline for this application was one month after the announcement by the respective embassy. After NGOs’ criticism³⁶ of the deadline, it was extended to 31 December 2020.³⁷
- Long waiting periods have negative consequences for unaccompanied minors the most due to a rule that concerns the age of the unaccompanied minors in Germany for family reunification. At the time of departure of the parents, the child needs to be underage. The Administrative Court

³⁰ In the Federal State of Berlin, such a programme exists for Afghan nationals since January 2023, see Landesamt für Einwanderung, “[Admission regulation of the Land of Berlin for Afghan, Syrian and Iraqi refugees with relatives in Berlin](#)” (2023).

³¹ Federal Ministry of Interior, [Aufnahmeanordnung](#) [Admission arrangement] (2022, December 21).

³² Germany Federal Office for Migration and Refugees, “[Information for former local staff in Afghanistan who already arrived in Germany](#)”.

³³ [Country Report: Germany](#), *supra* note 25 at 105.

³⁴ Pro Asyl, [Information for refugees from Ukraine](#) (4 March 2022).

³⁵ Reply to oral parliamentary request by Clara Bünger (die Linke) (8 February 2023) question no. 37, cited in [Country Report: Germany](#), *supra* note 25 at 193.

³⁶ Pro Asyl, [Die überlangen Verfahrensdauern verlängern sich durch Corona noch weiter](#) [The overlong durations of proceedings are extended by Corona even further], (9 October 2020).

³⁷ For more information on how Covid-19 impacted family reunification procedure in Germany, please refer to [Country Report: Germany](#), *supra* note 25.

of Berlin urged the authorities to give precedence to the processing of unaccompanied minors who were nearing their 18th birthday.³⁸

- Contesting this rule, in 2018 and 2022, the Court of Justice of the European Union (CJEU) decided that what determines family reunification is the date of the application and not the date of departure of parents since applications take a very long time to be processed.³⁹ The Left Party criticized the Federal government for not complying with the CJEU decision although the Federal government stated that the embassies and Federal states were advised to comply with the decision.⁴⁰
- The rule that family ties should exist before the flight to Germany was contested especially with regards to minor children in Germany wanting to reunite their parents. In one case in 2022, the child was born in Germany, and it was argued that the family did not exist in the country of origin. The Higher Administrative Court’s decision was that even if the child was not born yet, the family already existed as a family tribe.⁴¹
- The Left Party criticized the visa procedure for family reunification that was implemented for Afghans for being extremely lengthy, taking over a year.⁴² Moreover, the Left Party argued that in practice, family members mostly do not have access to family reunification as it could only be filed in Afghanistan and embassies in Pakistan and India which were overburdened.⁴³ Currently, embassies in Pakistan and Iran are responsible for processing visa applications for family reunification from Afghanistan.
- The differentiation between refugees and those who are under subsidiary protection regarding the right to family reunification is contested although the Federal Administrative Court ruled that it does not violate the Constitution. It is also argued that not only parents but also siblings of minors with a protection status should be able to reunite with the minor.⁴⁴
- In mid-2017, Germany and Greece reached an agreement to implement a cap on the number of asylum seekers transferred from Greece under family reunification. In 2019, Pro Asyl and Refugee Support Aegean (RSA) published a Legal Note⁴⁵ on the systematic rejections of family reunification requests from Greece by Germany under the Dublin III Regulation. The note criticizes the rejections which it considers to be persistent, and the way Germany implements the Dublin family reunification procedure for asylum seekers and argues that it negatively impacts

³⁸ Administrative Court of Berlin, [Decision 38 L 502.19 V](#) (16 January 2020). [Decision 38 L 442.19 V](#) (26 November 2019). See Country Report: Germany, *supra* note 25 at p 195.

³⁹ CJEU, Case [C-550/16](#), *A und S / Staatssecretaris van Veiligheid en Justitie*, Judgement of 12 April 2018; CJEU, Joined Cases [C-273/20](#), [C-355/20](#), Judgement of 1 August 2022, ECLI:EU:C:2022:617.

⁴⁰ Tagesschau.de, [Bundesregierung will Familiennachzug erleichtern](#), 26.10.2022 as cited in [AIDA and ECRE](#), *supra* note 13.

⁴¹ Higher Court of Rhineland-Palatinate, [Decision 13 A 11241/21.OVG](#) (25 June 2022) as cited in [AIDA and ECRE](#), *supra* note 13.

⁴² Federal government, response to parliamentary request, 20/3430, 22, [online in German](#) as cited in [AIDA and ECRE](#), *supra* note 13.

⁴³ Federal government, response to parliamentary request, 20/3430, 22, [online in German](#) as cited in [AIDA and ECRE](#), *supra* note 13.

⁴⁴ [Country Report: Germany](#), *supra* note 25 at 195.

⁴⁵ RSA-Pro Asyl, [“Legal note: Refugee Families Torn Apart”](#) (September 2019).

the right to family life and the best interest of the child. The Legal Note states that in recent years, the German administrative courts ruled in favor of the families that applied for reunification. Another implementation that is deemed wrongful by the note is the increased rejection of applications due to missing the deadline. The three-month deadline was interpreted to start with the expression of intention rather than the application being lodged with the competent authority which takes place at a later stage. This was criticized by the note arguing that the German authorities practiced the formal rules rather than substantial rules and binding criteria of the Regulation.⁴⁶

⁴⁶ *Ibid* at 8.