



Labour migration policies  
Case study series  
Germany

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This case study is part of a series of summaries by PICUM of specific national labour migration and work permit policies. While each case study focuses on a particular country, they are not comprehensive overviews of all the work permits available in the country. We focus on analysing the particular policies and pathways that are the most relevant across skills and sectors of employment.

This case study examines the following aspects of labour migration policy in Germany<sup>1</sup> as of November 2022:

- 1. Skilled Immigration Act**
- 2. Western Balkan Immigration Regulation**
- 3. Complementary labour market policies**

We also consider, in particular, where policies include some of the essential characteristics of successful labour migration and work permit policies, as set out in PICUM's [Policy recommendations, Designing labour migration policies to promote decent work](#).<sup>2</sup>

After describing key aspects related to eligibility, the application process and permit granted under each pathway and the complementary labour market policies, we include a table comparing these aspects to our policy recommendations and related indicators.

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1 This case study does not include information about the different tolerated statuses ('duldung') and the possibilities to convert this status. These include pathways for youth with long-term tolerated stay, and adults who can demonstrate 'sustainable integration' (education, employment, language) during tolerated stay, as well as specific provisions on tolerated stay for vocational education and for employment purposes introduced in 2019. For more information, see e.g. NDM website [Handbook Germany](#); Open Society European Policy Institute, 2020, [Towards an EU Toolbox for Migrant Workers. Labour mobility and regularisation in Germany, Italy, and Spain in 2020](#).

2 For the full report, please see PICUM, 2021, [Designing labour migration policies to promote decent work](#)

# The Skilled Immigration Act

While many countries' labour migration policies focus on highly-qualified and paid employment and specific shortage occupations, Germany's ['Skilled Immigration Act'](#), which came into effect on 1 March 2020, approaches the concept of "skilled" immigration in a way that expands possibilities for qualified professionals from non-EU countries to enter Germany.<sup>3</sup>

The Skilled Immigration Act covers all jobs that require at least two years of professional experience, training or academic studies.

To enter Germany under this scheme, it is necessary for a person's qualifications received abroad to be certified by a German regulatory body as equivalent to a German qualification, following a specific

application procedure. The recognition procedure can cost between 100 and 600 euros, depending on the profession. Applicants are entitled to an assessment of (partial) equivalency<sup>4</sup> and are issued a recognition certificate ("Anerkennungsbescheid") which lists relevant professional experience and additional evidence of qualifications, as well as differences between the German equivalent.

Qualified professionals can apply for a combined residence and work permit on the basis of an offer of employment (track 1), for a job-seeking permit (track 2) or to get recognition and equivalence of professional training (track 3). Currently track 2 and track 3 are limited until 1 March 2025. It is not possible to apply for any of these tracks from within Germany.

## Track 1: Work permit

Once someone has their qualifications recognised as equivalent,<sup>5</sup> they need an offer of employment or employment contract in a corresponding position. The offer of employment does not need to be full time, and can also include freelance and self-employment. There are no restrictions on the issuing of work permits through labour market tests, shortage occupation lists, quotas or minimum income requirements unless the person is over the age of 45. In this case the annual gross salary must be at least 46.530 euros. The Federal Employment Agency verifies that the working conditions for job offers meet German standards.

The prospective employee then needs to request an appointment with the respective competent representation of Germany in the country of origin or habitual residence, to apply for a visa to practice a qualified profession. The visa procedure costs 75 euros (in local currency), which is often paid by the worker, in addition to the recognition procedure and travel costs. It may be possible to negotiate regarding costs with employers, particularly if opting for the accelerated procedure. This procedure costs an additional 411 euros and is applied for by the employer.<sup>6</sup> Once in Germany, the person can begin working for their employer and needs to apply for

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3 Most of the changes brought in by the Skilled Immigration Act can be found in the [Residence Act \(AufenthG\)](#) and at the government website [Anerkennung in Deutschland](#).

4 Article 13 Professional Qualifications Assessment Act ([Berufsqualifikationsfeststellungsgesetz](#), BQFG).

5 If a license is necessary to practice, this is also required.

6 Section 81a [Residence Act \(AufenthG\)](#) c.f. [Anerkennung in Deutschland](#).

a combined residence and work permit for skilled work from the competent Foreigners' Authority, before the entry visa expires. Fees can be up to 100 euros.<sup>7</sup>

The permit issued is for the duration of the job contract, up to a maximum of four years, and can be renewed.

It is possible to change employer on the same permit. During the first two years, it is necessary to stay within the same profession and receive consent from the Federal Employment Agency. After two years no consent is required, the person just needs to notify the authorities of the change.<sup>8</sup>

After four years, the person can apply for a long-term residence permit.

People can apply for family reunification on the basis of this residence and work permit. Family members have full access to the labour market.<sup>9</sup>

It is possible to change employer on the same permit. During the first two years, it is necessary to stay within the same profession and receive consent from the Federal Employment Agency. After two years no consent is required, the person just needs to notify the authorities of the change.<sup>10</sup> Workers switching jobs do not need to apply for a new permit, nor are they required to have an offer for their next job; people can be unemployed for up to six months while looking for work. They can access unemployment benefits on the same terms as nationals.

## Track 2: Job-seekers

It is also possible for people who have a recognition certificate, but not an offer of employment, to apply for a 6-month visa to look for work in their occupation. Building on the introduction in 2012 of a job-seeker visa for persons with university education, the new regulation broadens the scope to also enable those with vocational, non-academic training to enter Germany to seek employment.<sup>11</sup>

Job-seekers need to demonstrate adequate subsistence for the time they search for work; the job-seeking visa only allows for visa holders to work for 10 hours per week, in the job they are qualified for.<sup>12</sup> They also need to show a minimum level of German language competence. The visa procedure is otherwise similar to above (via appointment at the Germany embassy, 75 euro fee paid by job-seeker).

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7 Work visa for qualified professionals, [Make-it-in-Germany website](#) (accessed 3 October 2022).

8 Article 9, paragraph 1 of the [Ordinance on the Employment of Foreigners](#) (BeschV).

9 However, there are some restrictions, for example regarding accommodation and resources of the permit holder, in Germany, and the partners' basic knowledge of German except for certain nationalities. More information available [here](#).

10 Article 9, paragraph 1 of the [Ordinance on the Employment of Foreigners](#) (BeschV).

11 Section 20 Skilled workers seeking employment of the [Residence Act](#).

12 *Ibid.*

Once the worker finds a job in their area of specialisation in Germany, there is no labour market test; they can apply for a combined residence and work permit based on their labour contract.

The visa cannot be extended. People can apply for it again only after they have spent the same duration abroad that was spent in Germany searching for employment.

### Track 3: Recognition and equivalence of foreign qualifications

In addition, the Skilled Immigration Act has broadened the scope to also allow partially qualified workers to enter Germany to complete their professional training to be recognised as equivalent.<sup>13</sup>

If the permit is granted, these workers will have 18-36 months to [achieve full equivalence in skills](#), either through on-the-job training, enrolling in the relevant vocational, higher or language education programme, or a combination of both.

Through a separate procedure, the recognition certificate can be used to obtain a 'certificate of deficits', indicating the missing training. The German authorities use this to decide whether it is realistic that the remaining skills, experience and/or qualifications can be acquired within a 18-36-month period.<sup>14</sup>

Similar to the job-seeking visa, the permit for completion of professional training can be converted into a work permit; the person can apply for a combined residence and work permit from within the country based on a labour contract, without being subject to a labour market test.

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13 Section 16d "Measures regarding the recognition of foreign professional qualifications" of the [Residence Act](#).

14 A few different scenarios are provided for under this possibility (Article 16d). In some cases, a maximum period of two years is provided (see 16d(1) and 16d(3)) but someone may be granted a 1-year permit that may be extended by 12 months up to a maximum period of 3 years under specific conditions (see Article 16d(4)) of the [Residence Act](#).

## Analysis of the Skilled Immigration Act in Germany compared to PICUM's key recommendations and indicators.<sup>15</sup>

Policy recommendations	Indicators	The Skilled Immigration Act
<b>1. Streamlined and efficient procedures</b>		
<p><b>Good administration:</b> Procedures to obtain and renew visas and permits should be streamlined with reasonable administrative requirements.</p>	<p><b>1.1</b> Number of steps in application procedure</p>	<p><b>For tracks 1, 2 and 3</b> This falls short. The number of steps in the application procedure could be simplified with respect to having to apply separately for the recognition of qualifications and the corresponding permit. In addition, the accumulated costs to workers are very high.</p>
<p><b>Based on an offer of employment:</b> An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors.</p> <p>If some level of preferential access is to be provided to resident workers, the mechanism should ensure resident workers are able to apply for the job, but not prevent employers from selecting their preferred candidate through recruitment procedures.</p>	<p><b>1.3</b> Eligibility/non-eligibility requirements to access a permit with a job offer</p>	<p><b>For tracks 1, 2 and 3</b> This falls short. It is not available for all jobs and sectors, being limited to 'skilled' employment - defined as jobs requiring at least two years of professional experience, training or academic studies. Nonetheless, this pathway uses a broad concept of 'skilled' employment, and the combination of different tracks and possibility to complete professional training through track 3 extend access.</p> <p><b>For track 1</b> This is met to some extent as it only checks compliance with labour law (no labour market tests, quotas or minimum income requirements). The latter is not applicable to people over the age of 45, who need to have a minimum gross income of 46.530€.</p>
<p><b>Stability for workers and employers:</b> Permits should be of a reasonable duration, of at least two years.</p>	<p><b>1.4</b> Length of permit</p>	<p><b>For track 1</b> This is met to some extent as the length of the permit can be up to four years, but it depends on the length of the contract.</p>
<p>Permits should be renewable, without requiring workers to leave the country.</p>	<p><b>1.5</b> In-country renewals</p>	<p><b>For track 1</b> This is met.</p>

<sup>15</sup> For the complete list of policy recommendations and suggested indicators, please see PICUM, 2021, [Policy recommendations, Designing labour migration policies to promote decent work](#). For the full report, please see PICUM, 2021, [Designing labour migration policies to promote decent work](#).

Policy recommendations	Indicators	The Skilled Immigration Act
<p><b>In-country applications:</b> Restrictions on people changing from one type of status or permit to another should be lifted.</p>	<p><b>1.7</b> Status/ permit can be converted into another</p>	<p><b>For tracks 2 and 3</b> This is met to some extent as when the worker finds a job there is no labour market test and they can apply for a combined residence and work permit.</p>
<p><b>Attracting key workers:</b> Systems which provide people a secure permit on the basis of individual criteria rather than an offer of work (so-called 'supply driven' models) should also be developed.</p>	<p><b>1.8</b> Requirements to access a permit to search for work or have facilitated access to the labour market and associated permits</p>	<p><b>For track 2</b> This is met to some extent, as it is possible for people with a recognition certificate to apply for a 6-month visa to look for work in the occupation, but the requirement to demonstrate adequate subsistence and only work 10 hours per week in the job the person is qualified for limits accessibility.</p> <p><b>For track 3</b> This is met to some extent, as partially qualified workers can enter Germany to complete their professional training to be recognised as equivalent.</p>
<h2>2. Autonomy for workers</h2>		
<p><b>Worker-owned procedures:</b> Workers should be able to apply for permits themselves.</p>	<p><b>2.1</b> Ownership of application process/ worker or employer-made application</p>	<p><b>For track 1</b> This is met.</p>
<p><b>Labour market mobility:</b> Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, on the same permit, without permission from the employer or labour intermediary.</p>	<p><b>2.2</b> Procedure to change employer</p>	<p><b>For track 1</b> This is met to some extent, but the procedure could be further simplified, in particular, by removing the need for consent.</p>
	<p><b>2.3</b> Procedure to change type of job <b>2.4</b> Procedure to change sector</p>	<p><b>For track 1</b> This falls short, as workers cannot change the type of job and sector in the first two years.</p>
	<p><b>2.6</b> Time period before change of employer</p>	<p><b>For track 1</b> This is met as it is possible to change employers at any time. However, it needs to be within the same job and sector for the first two years.</p>



Policy recommendations	Indicators	The Skilled Immigration Act
<p><b>Independence from employers:</b> Permits should remain valid to provide a reasonable period of time of unemployment to search for alternative work, for workers that lose or leave their job.</p>	<p><b>2.7</b> Time periods for unemployment/ job search during validity of permit and after the permit has expired</p>	<p><b>For track 1</b> This is met to some extent as people can be unemployed only for six months.</p>
<p>Financial and practical support should be accessible during this time, at least on the same terms as nationals. Particular attention should be paid to situations where workers' housing was also provided by their employer.</p>	<p><b>2.8</b> Available financial and practical support while unemployed</p>	<p><b>For track 1</b> This is met to some extent, as workers can access unemployment benefits on the same terms as nationals.</p>
<h3>3. Equality and family unity</h3>		
<p><b>Non-discrimination:</b> Access to employment and associated permits should be non-discriminatory across all protected grounds under human rights law.<sup>16</sup></p>	<p><b>3.1</b> Restrictions in access to permits on prohibited grounds</p>	<p><b>For track 1</b> This falls short, as applicants over the age of 45 need to have a minimum income of 46.530€.</p>
<p><b>Family unity:</b> Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted.</p>	<p><b>3.5</b> Possibilities to and restrictions on access to permits for family members</p>	<p><b>For track 1</b> This is met to some extent as family reunification is possible under this permit, and family members have full access to the labour market. However, there are some restrictions, for example regarding accommodation and resources of the permit holder and the partners' basic knowledge of German.</p>
<p>Spouses/ partners should also be provided access to the labour market.</p>	<p><b>3.6</b> Access to the labour market for family members</p>	
<h3>5. Social Inclusion</h3>		
<p><b>Pathways to settlement:</b> There should also be pathways to settlement after a number of years. All periods of residence should count towards long-term residence status.</p>	<p><b>5.1</b> Residence counts towards long-term residence or settled status</p>	<p><b>For track 1</b> This is met to a limited extent, as residence under track 1 counts towards long-term residence status.</p>

16 For more information, see Fundamental Rights Agency and Council of Europe, 2018, [Handbook on European non-discrimination law, 2018 edition](#).

## The Western Balkan Immigration Regulation

The West Balkan Immigration regulation<sup>17</sup> is currently the only pathway<sup>18</sup> for migration to work in jobs that are not considered skilled as per the Skilled Immigration Act. The regulation allows nationals of Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro and Serbia to enter Germany under a combined residence and work permit, [irrespective of their qualifications](#).<sup>19</sup> A similar pathway was in place during the period from 2000-2015, but not restricted to nationals of the Balkan countries.<sup>20</sup>

Employment can be in any job and sector. It is necessary to be in possession of an employment contract or binding job offer. The position is also subject to a [labour market test](#); the Federal Employment Agency assesses both if the job offer meets standards on working conditions and if there are employees available locally to fill the position.

Applications for this permit are made by the prospective employee, and must be submitted to the German embassy in the Balkan country.<sup>21</sup> There have been significant issues with [long waiting times](#) for visa appointments.

Permits are issued for the duration of the job offer/ employment contract, and may be renewed. The worker can change employer but needs approval from the Federal Employment Agency in order to do so. People can apply for family reunification on the basis of this residence and work permit.

This regulation was introduced in 2015 and initially intended to expire in 2020, but was extended until the end of 2023, with a new annual quota of 25,000 permits. The pathway is largely used to find employment and fill labour shortages in sectors such as construction, hospitality and cleaning.

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17 Section 26 (2) Employment of certain nationals in [Ordinance on the Employment of Foreigners](#), and as stated in Section 19c Other employment purposes; civil servants of the [Residence Act](#).

18 Germany is considering bilateral labour migration schemes for seasonal workers, for example with Georgia. There are also specific pathways for IT specialists, professional drivers, artists, language teachers and professional athletes and coaches.

19 Unless the work is in a regulated profession, in which case recognition of qualifications would be necessary.

20 The labour migration pathway for nationals of the Balkan countries coincided with the designation of these countries as 'safe', and nationals therefore ineligible for international protection.

21 [Ordinance on the Employment of Foreigners](#).

## Analysis of the Western Balkan Immigration Regulation in Germany compared to PICUM's key recommendations and indicators.<sup>22</sup>

Policy recommendations	Indicators	The Western Balkan Immigration Regulation
<b>1. Streamlined and efficient procedures</b>		
<p><b>Based on an offer of employment:</b> An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors.</p> <p>If some level of preferential access is to be provided to resident workers, the mechanism should ensure resident workers are able to apply for the job, but not prevent employers from selecting their preferred candidate through recruitment procedures.</p>	<p><b>1.3</b> Eligibility/non-eligibility requirements to access a permit with a job offer</p>	<p>This falls short as a labour market test needs to be conducted.</p>
<p><b>Stability for workers and employers:</b> Permits should be of a reasonable duration, of at least two years.</p>		
<p>Permits should be renewable, without requiring workers to leave the country.</p>	<p><b>1.4</b> Length of permit</p>	<p>This is met to some extent, as the length of the permit depends on the length on the contract.</p>
<p><b>In-country applications:</b> People should be able to apply for the various residence and work permits provided for by national law from within the country, regardless of their status, including when undocumented.</p>	<p><b>1.5</b> In-country renewals</p>	<p>This is met.</p>
	<p><b>1.6</b> In-country applications including when undocumented</p>	<p>This falls short as it is only possible to apply from abroad.</p>

<sup>22</sup> For the complete list of policy recommendations and suggested indicators, please see PICUM, 2021, [Policy recommendations, Designing labour migration policies to promote decent work](#). For the full report, please see PICUM, 2021, [Designing labour migration policies to promote decent work](#).

Policy recommendations	Indicators	The Western Balkan Immigration Regulation
<b>2. Autonomy for workers</b>		
<p><b>Worker-owned procedures:</b> Workers should be able to apply for permits themselves.</p>	<p><b>2.1</b> Ownership of application process/ worker or employer-made application</p>	<p>This is met.</p>
<p><b>Labour market mobility:</b> Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, on the same permit, without permission from the employer or labour intermediary.</p>	<p><b>2.2</b> Procedure to change employer</p>	<p>This falls short as the worker needs approval from the Federal Employment Agency in order to change employer.</p>
<b>3. Equality and family unity</b>		
<p><b>Non-discrimination:</b> If there is preferential treatment, including for certain nationalities, this should be justifiable in relation to pre-existing disadvantage.</p>	<p><b>3.2</b> Justification for preferential treatment, if applicable</p>	<p>This falls short as only citizens from Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro and Serbia can apply.</p>
<p><b>Family unity:</b> Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted.</p>	<p><b>3.5</b> Possibilities to and restrictions on access to permits for family members</p>	<p>This is met to some extent, as it is possible to apply for family reunification under this pathway. However, there are important restrictions, for example regarding accommodation and resources of the permit holder and the partners' basic knowledge of German.</p>

## Complementary labour market policies

There are currently no proactive information campaigns on a federal level to inform migrants of their labour rights. Municipalities are more active in providing information and some receive funds from regional labour ministries for this purpose. There is a [network of trade union centres](#) providing advice and counselling services to migrant workers.

Due to significant legal and practical barriers, labour standards enforcement mechanisms are rarely accessible or effective for migrant workers with precarious or irregular status and no transitional permits are available for workers who experience exploitation.

### Complementary labour market policies compared to PICUM's key recommendations and indicators.<sup>23</sup>

Policy recommendations	Indicator	Complementary labour market policies
<b>4. Complementary labour market policies to enforce labour rights for all</b>		
<b>Justice for all:</b> Labour standards monitoring, complaints and redress mechanisms should be well resourced, independent and confidential. Measures should be developed to protect workers from employer retaliation and immigration enforcement as a result of exercising their rights - and effectively provide access to justice for migrant workers.	<b>4.4</b> Measures to protect workers from employer retaliation and immigration enforcement following engagement	This is not met as there are significant risks of facing immigration enforcement if workers engage with the Customs Authority (FKS) or even employment tribunal. For more information see: PICUM, 2020, <a href="#">A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice</a> .
	<b>4.5</b> Back wages and compensation paid to workers	
<b>Empowerment:</b> Targeted measures should ensure migrant workers have meaningful access to accurate information, NGOs and trade unions, and independent legal advice.	<b>4.6</b> Measures to provide accurate information, and access to NGOs and trade unions	This falls short as there are no federal campaigns and actions to proactively inform migrant workers, only some information in different languages online.

<sup>23</sup> For the complete list of policy recommendations and suggested indicators, please see PICUM, 2021, [Policy recommendations, Designing labour migration policies to promote decent work](#). For the full report, please see PICUM, 2021, [Designing labour migration policies to promote decent work](#).







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