Introduction

This report is part of the REGANE study dealing with the impact of regularisation\(^2\) of third country nationals on their labour market trajectories in the European Union (EU). The study aims at implementing a survey among regularised immigrants in selected EU countries (Germany, France, Italy, the Netherlands, Poland, Spain and Sweden). As a first step the study collects background information on regularisation practices in the countries under study, assesses the feasibility and best possible research design for such a survey and collects information based on semi-structured qualitative interviews.

This report presents the results from the collection of background information and qualitative interviews for Germany. The first section outlines the general migration situation and migration policy in the country with particular focus on irregular migration. The second section analyses regularisation policies and practices in the country. The third section provides preliminary results of the impact of regularisation on labour market performance.

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\(^1\) The report was reviewed by Dita Vogel. The author is grateful for her helpful comments and the responsibility for the content of this report and any errors and omissions solely lies with the author. The views expressed in this study are those of the author and do not necessarily reflect the point of view of the European Commission or ICMPD as an intergovernmental organisation.

\(^2\) Regularisation or legalisation of foreign citizens is defined as any state procedure by which third country nationals who are illegally residing, or who are otherwise in breach of national immigration rules, in their current country of residence are granted a legal status (cf. Baldwin-Edwards/ Kraler 2009: 9).
based on existing literature and semi-structured interviews conducted in the course of the study. The last section concludes the report.

Within the EU, Germany is the most important destination country for immigrants from outside the EU. The country is a federal republic consisting of 16 states (Bundesländer) with its capital city Berlin. Berlin is by far the largest city in Germany with over 3.5 million inhabitants. Berlin as well as the second largest city in Germany, Hamburg are cities and at the same time states (city-states). The representatives of state governments form the second chamber of parliament. It has veto power over the national parliament in most areas of legislation and thus plays an important role in the process of policy making.

Over 4.6 million third-country nationals were living in Germany at the beginning of 2012, representing over 22 percent of all third-country nationals living in the EU-27 and 5.7 percent of the total population residing in Germany (altogether over 81 million). In 2005 a new law on the residence of foreign citizens was introduced and repeatedly amended since then.

Undocumented migration in Germany is mainly connected to asylum migration, although there are also cases of fully undocumented immigration. A major issue in Germany is the treatment of rejected asylum seekers and other foreign citizens who cannot be deported due to humanitarian or practical reasons. In the past decades tens of thousands of persons received a “toleration status”, which is the official postponement of deportation. Further tens of thousands of persons were granted a legal residence after holding a toleration status due to different reasons. The following report gives an overview about the situation in Germany regarding the legalisation of persons in an irregular residence situation in relation to labour market performance.

1. General context – migration history and policy

German borders changed repeatedly over the last two centuries. The territories of today’s Germany have always been characterised by significant immigration and emigration flows. In addition to the well known mass emigration from Germany and other European countries to the United States in the 19th century, there was also considerable immigration to the German Reich after its constitution towards the end of that century (cf. Bade 1980). Germany’s

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3 These numbers refer to the statistics published by Eurostat, but the most recent register-based census showed that the numbers are much lower. Germany reports a population of some 80.3 million at the beginning of 2012 (see https://www.destatis.de/EN/Homepage.html). The number of the foreign population is also considered to be much lower, but new data are not published at the time of writing. In the report, we stick to Eurostat data for the sake of comparability with other EU countries.
citizenship policy was descent-based from its very beginning, meaning that German nationality was acquired at birth only through parents of German nationality and not based on the place of birth (Brubaker 1998, Preuss 2003). This policy, which was related to and contributed to the view of immigrants as foreigners, who are not deemed to become Germans, remained in place for over a century until the very end of the 20th century, which is seen a turning point in migration policy in Germany (Baringhorst 2013).

After World War II, Germany lost territory in the east, and the remainder was split into two states: the Western Federal Republic of Germany (FDR) and the Eastern German Democratic Republic (GDR). Millions of displaced Germans from former territories settled in the two German states, but the migratory situation soon began to develop differently, with low level contract workers recruitment in the GDR and high level guest worker recruitment from Southern Europe until the early 1970s in the FDR (Vogel and Kovacheva forthcoming).

Migrants were seen as “guests” rather than immigrants, although it soon became clear that the recruited workers and temporary migrants settled in Germany and subsequently brought their families. In addition to “guestworker recruitment”, there was significant immigration by “ethnic Germans” from Eastern European countries into the new unified Germany in the 1990s, a group that had easy access to citizenship. Furthermore, asylum migration to Germany became an important feature of immigration to Germany, which turned out to be a major challenge for migration policy makers in the early 1990s and in recent years.

Therefore the current population with “migration background”\(^4\), originates from various migration movements under differing circumstances and legal regulations. After a change in government in 1998 the turning point in migration policy in Germany (Baringhorst 2013) was mainly expressed through a reformed citizenship law in force since 2000 and a new residence act (AufentG) 2005 with subsequent amendments. The new citizenship law allowed children born to legally residing foreign citizens (for at least eight years) to become German citizens at birth. The new residence law principally reduced the number of different types of existing residence permits to two: a temporary residence permit (befristete Aufenthaltserlaubnis) and a permanent settlement permit (unbefristete Niederlassungserlaubnis). In addition, a visa counts as residence title and in 2007, EU’s long term residence status was introduced. EU citizens are not concerned by the residence law. Besides those residence titles, there is the so called “permission of residence” (Aufenthaltsgestattung), which is issued to asylum seekers for the asylum procedure, and the

\(^4\) i.e. immigrants after 1949, persons with foreign citizenship and persons born to at least one parent who was born abroad.
“toleration” (Duldung), which is issued to third country nationals, who were ordered to leave the country but whose deportation is pending due to factual or legal reasons and who were not granted a residence permit. Toleration status is granted until the reasons for postponing deportation cease (Bundesregierung 2012: 169-172). Currently, labour market access for asylum seekers and tolerated persons is in principle possible after a certain time period. However, the regulations concerning access to the labour market have changed repeatedly in the past years. Asylum seekers currently do not have access to the labour market in the first nine months. After that they can access training/ education and can obtain a work permit after approval by the Federal Employment Agency (Bundesagentur für Arbeit). This means that access to a certain job is granted only if there is no other person with a more secure status available (including German citizens, EU citizens, EFTA and Swiss citizens as well as third country nationals with unlimited access to the labour market). After four years of residence no approval from the Federal Employment Agency is necessary any more. The same applies to persons with toleration status, but there is no access to the labour market in the first twelve months of residence in Germany. In mid-2013, access to labour market was made easier for third country nationals in the sense that if the Federal Employment Agency does not reply to the request for approval within two weeks, asylum seekers and tolerated persons are allowed to work.\(^5\) Tolerated persons are restricted to geographical units within Germany, which makes labour market access in regions with high unemployment very difficult. They receive basic healthcare and other basic support (Heegaard Bausager, Köpfli Møller & Solon 2013: 85).

The Central Register of Foreigners (Ausländerzentralregister) recorded almost 7,000,000 foreign citizens in Germany at the end of 2011\(^6\), but according to the recent census the number is assumed to be lower. The majority of 60 percent were holding a permanent residence permit and the largest group are Turkish citizens at approx. 1.6 million. Other important groups of citizenship from outside the EU are Serbia, Croatia, Russia and Bosnia and Herzegovina. The register also contains information on persons with insecure and even some persons without any residence status (Bundesregierung 2012: 165, 170).

\(^5\) Information drawn from refugee support Flüchtlingsrat Sachsen-Anhalt, website http://www.fluechtlingsrat-lsa.de/2013/07/erleichterter-arbeitsmarktzugang-fur-fluechtlinge-neuregelung-der-beschäftigungsverordnung/ accessed on 19 September 2013. The law is called „Verordnung über die Beschäftigung von Ausländerinnen und Ausländern (Beschäftigungsverordnung - BeschV)“.

\(^6\) The register also includes EU citizens.
At the end of 2011 there were 87,839 persons registered holding a toleration status and 47,161 persons with a “permission of residence” (i.e. asylum seekers). Toleration status is held by persons with a variety of nationalities (Table 1). The groups of citizenship with tolerated status are also among the most important groups of citizenship among asylum applicants in Germany in the past decade or so, indicating that many of them received a toleration after a failed asylum application.\(^7\) It is important to note the difference between persons with toleration status, who are ordered to leave Germany, and persons with subsidiary protection, who are not ordered to leave and protection is offered based on §25(3). At the end 2010, over 26,000 persons with subsidiary protection status resided in Germany. More than 75 percent or over 20,000 of them residing in Germany for more than six years (Deutscher Bundestag 2011: 4-5). Besides the group of tolerated persons, who are in principle obliged to leave the country, there are several groups of persons with irregular residence status in Germany, although the statistics need to be interpreted cautiously (Cyrus & Kovacheva 2010; Vogel & Assner 2011).

Three types of persons in an irregular residence situation can be distinguished. (1) Foreign citizens without any documentation (i.e. undocumented), (2) principally legal residents in breach with existing residence regulations (i.e. persons, who would be expelled if unlawful residence would be found out by authorities) and (3) persons due to leave the country but who cannot be deported for several reasons. Naturally, there is not much information about fully undocumented persons in Germany and estimates for the year 2010 range from 140,000 to 340,000 (Vogel & Assner 2011). Moreover, obviously there is no information on

\(^7\) See UNHCR statistics for instance.

### Table 1: Number of tolerated persons on 31 December 2011

<table>
<thead>
<tr>
<th>Citizenship</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serbia/Montenegro*</td>
<td>11506</td>
<td>13.1%</td>
</tr>
<tr>
<td>Iraq</td>
<td>7252</td>
<td>8.3%</td>
</tr>
<tr>
<td>Turkey</td>
<td>5904</td>
<td>6.7%</td>
</tr>
<tr>
<td>Kosovo</td>
<td>5579</td>
<td>6.4%</td>
</tr>
<tr>
<td>Syria</td>
<td>4311</td>
<td>4.9%</td>
</tr>
<tr>
<td>Lebanon</td>
<td>3752</td>
<td>4.3%</td>
</tr>
<tr>
<td>India</td>
<td>2919</td>
<td>3.3%</td>
</tr>
<tr>
<td>Russia</td>
<td>2819</td>
<td>3.2%</td>
</tr>
<tr>
<td>China</td>
<td>2645</td>
<td>3.0%</td>
</tr>
<tr>
<td>Other</td>
<td>41152</td>
<td>46.8%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>87839</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

Source: Bundesregierung 2012, page 170-171. * Includes both countries due to aggregated counting prior to independence.
how many persons stay legally in the country, but who do not comply with the conditions (e.g. purpose) of their legal residence. The number of tolerated persons, who are ordered to leave but who cannot be deported, is outlined above.

When it comes to irregular migration in Germany, asylum migration appears to be an important area which contributed to increasing numbers of persons with toleration status. More than 2.86 million asylum applications were recorded in Germany between 1990 and 2007 and only some 135,000 cases were recognised in that period, that is 4.7 percent. While further 248,000 persons were allowed to stay for humanitarian reasons, 1.87 million applications were rejected during that period. Some of the rejected asylum seekers remained in Germany (Cyrus & Kovacheva 2010, 125-127). After declining first asylum application numbers for over a decade with a record low of below 20,000 in 2007, asylum applications increased in recent years as well as the number of rejections of asylum applications (Bundesregierung 2012: 86).

It can be assumed that there will always be a number of persons, who cannot be returned and therefore have to stay in the country with tolerated status or without any status. This is also indicated by the currently growing number of rejections of asylum applications in the past years (see annex). Generally rejection rates are high, mostly exceeding 50 percent (see Figure 2). Germany signed agreements related to readmission with eight of the ten countries with highest rejection rates of the past years, except for Ghana and Lebanon. At the end of the year 2011 over 47,000 asylum seekers were living in Germany, almost 10,000 of them from Afghanistan. Other important countries of origin of asylum seekers in Germany are Iraq, Iran and Syria (Bundesregierung 2012: 170-171).

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8 Other cases were „otherwise closed“ (e.g. withdrawn).
9 Information from inventory of the agreements linked to readmission Return Migration and Development Platform, European University Institute 2011 - See more at: http://rsc.eui.eu/RDP/research/analyses/ra/#sthash.dfnmRIyB.dpuf (accessed September 2013).
Germany is often referred to as a reluctant country of immigration because efforts to better regulate immigration and integration matters were only picked up since the end of the 20\textsuperscript{th} century. At the same time Germany was termed an “ideological opponent of regularisation” (Baldwin-Edwards & Kraler 2009, 50). This remains true for the definition of regularisation as “any state procedure by which third country nationals who are illegally residing, or who are otherwise in breach of national immigration rules (...) are granted a legal status” (Baldwin-Edwards & Kraler 2009, 9). Yet there are tens of thousands of cases which might be called “two-step regularisations”. Practices of regularisation in Germany will be described in the following section.

### 2. Regularisation policies

In response to a questionnaire about positions towards regularisation of illegally residing immigrants sent out in 2008, Germany took a strong position against large scale regularisations, because of fears that such programmes could constitute a pull effect for
irregular migration to Germany. At the same time, several status adjustment programmes have been carried out in the past decades in Germany (Kraler et al. 2009). Most of those programmes as well as some existing mechanisms, grant legal status to persons with tolerated status, but not to persons without any status (i.e. undocumented). However, undocumented persons are tolerated if they come to the knowledge of authorities and are categorised as “not deportable”, so that toleration may be a first step to a regular status. Since toleration is not a residence permit as such, it might be placed somewhere between legal and illegal residence. Transfer from toleration status to a legal residence status can be called regularisation because toleration does not present a regularisation of stay, but just the postponement of deportation.

There were and still are several possibilities for persons with toleration status to obtain legal residence. In 2006 there was a decision by the Conference of Ministers of Interior of the German Bundesländer about the right to remain for tolerated persons (Bleiberechtsbeschluss IMK). It provided a common position of the Bundesländer about issuance of residence permits to tolerated persons. Residence permits were issued on the basis of paragraphs 104a(1), 104a(2) and 104b(1) in connection with paragraph 23(1). These paragraphs can be called old-case clauses” and provide residence permits for different groups if they resided in Germany for a particular time on 1 July 2007. It allowed persons who are obliged to leave the country to obtain a temporary legal status (Kraler et al. 2009). Paragraph 104a allowed access to legal status to the before mentioned group, if the person, staying in Germany for at least six years, lived together with at least one minor or unmarried child as a family unit and (1) has sufficient housing (space), (2) adequate knowledge of German (level A2 of the Common European Framework of References for Languages), (3) proves that the child attends school (if of school age), (4) has not wilfully deceived the authorities (related to the residence status issues), (5) does not have any connections to extremist or terrorist organisations and (6) has not been convicted of an office wilfully committed in Germany (and was fined 50 daily rates or more). In case the person can ensure his or her subsistence independently through economic activity, persons receive a residence permit based on paragraph 23(1). This is § 104a(1) Sentence 1. If the persons cannot yet prove economic independence they receive a residence permit ‘on trial’ until 1 July 2008. This is § 104a(1) Sentence 2. The second section of paragraph 104a(2) applies to children or adults who were children upon arrival in Germany with toleration status, “permission of residence” (asylum seekers) or humanitarian status residing in Germany for at least six years (as minor) may obtain a residence permit based on §23(1) if the child appears to be able to “integrate into the way of life prevailing in Germany” based on the child’s education or “way of life”. Finally, paragraph 104b allows minors to obtain a residence permit based on paragraph 23(1) if they
had their 14th birthday before 1 July 2007 and they stayed in Germany for at least 6 years under legal or toleration status, show German language skills, is considered as “integrated” based on education or “way of life” and subsistence is secured (cf. Heegaard Bausager, Köpfli Møller & Solon 2013, 94-97 and Parusel 2010: 43).

Persons could apply until 30 September 2007 but in December 2009, the ministers of interior of the Bundesländer decided to extend the deadline for fulfilling the conditions for a prolongation of residence status until 31 December 2011, because some regularised persons were likely to fall back into toleration status.10

In addition to the time limited programme, there are several regularisation mechanisms in place. Federal laws foresee that persons with postponed deportation can obtain residence permit through the individual “Hardship regulation” (§ 23a) and collective regulations § 23(1), if applied by the Bundesländer and §23(2), if applied by the Federal Ministry of Interior and the Federal Office for Migration and Refugees (BAMF). The former (§23a) concerns individual cases, while to latter paragraph (§23) can also apply to groups of persons (as it was done with the programme described above) and is referred to as the “Right of Residence” (Bleiberecht). Victim’s of criminal offences may obtain a residence permit for 6 months under paragraph 25(4a) or 25(4b). Paragraph 25(5) allows persons to obtain a residence permit if deportation is not likely to be possible in the near future. Principally persons get toleration status first and obtain a residence permit only if deportation is postponed for 18 months. Paragraph 25a(1) provides residence permits for persons who entered Germany at age younger than 14, resided in Germany and went to school in Germany for at least six years and earned a degree in Germany. Paragraph 25a(2) addresses parents, a single custodian of a minor child and other minor children living in the household of a person who was granted residence permit according to paragraph 25a(1) (cf. Heegaard Bausager, Köpfli Møller & Solon 2013, 94-97 and Parusel 2010: 43).

Since recently, “qualified” persons (i.e. persons with vocational training or higher education) with toleration status may obtain a residence permit if they have been employed in the past 2 or 3 years in a job that requires their qualifications. Moreover, applicants need to have sufficient housing, sufficient knowledge of German and other requirements laid down in paragraph 18a(1) residence act.

In principle all regularised persons in Germany have access to the labour market, but partly approval by the Federal Employment Agency was needed. In mid-2013, access to the labour market was made easier for all third country citizens. In the course of creating gateways for the recruitment of qualified persons from abroad, the employment access for tolerated third country nationals inside the country was also improved. Persons granted a residence permit according to § 25 can apply for a work permit without the need of approval from the Federal Employment Agency.\(^\text{11}\)

In order to support regularised immigrants in being able to maintain their status, which was mainly bound to having stable employment, a large-scale programme was launched in 2008. The programme called XENOS (labour market support to persons with right to stay (“Bleiberecht“) and refugees) started in 2008 and runs in two phases until 2014 and is supported with approx. 84 million Euros from the European Social Fund (ESF) and national co-funding. The initiative supported networks at local and regional level, which offered support to persons with regularised stay (Bleiberecht) to integrate into the labour market. The overall objective of the programme was to avoid welfare dependency of the target population.\(^\text{12}\) The programme was also subject to an extensive evaluation, which will be discussed further below. The programme is not going to be prolonged after 2014, which is justified by the German government by the reduced availability of funds from the ESF as of 2014.\(^\text{13}\)

Given the variety of statuses and opportunities to obtain a residence permit in Germany, it is also not so easy to provide an overview of the regularisation practices in Germany. In a parliamentary inquiry in the year 2011, statistics on stocks of persons according to their detailed residence status at the end of 2010 were published. Figure 2 provides an overview of the number of registered regularised persons as well as asylum seekers and tolerated persons. At the end of 2010 the central register of foreigners recorded almost 140,000 persons holding a residence permit based on regularisation mechanisms due to several reasons and legal regulations. Most regularisations were issued through paragraph 23 (1), which was facilitated in the programme initiated by the Bundesländer in 2006. There are also almost 50,000 persons who obtained a residence permit because forced return does not seem to be feasible in the near future. Slightly more than 30,000 foreign citizens who did not


\(^{13}\) Deutscher Bundestag 2013, 3.
hold a residence permit and were obliged to leave Germany were registered by the authorities at the end of 2010.

Looking at the percentage of persons holding a residence permit based on one of the regularisation mechanisms in the total foreign population residing in each of the Bundesländer, the highest share of regularised persons can be found in Saxony-Anhalt, where almost five percent in the foreign population hold a residence permit based on a regularisation mechanism. Other countries with higher shares of regularised foreign citizens are Hamburg, Mecklenburg-Vorpommern, Thuringia and Berlin (all at least 3 percent). The distribution and numbers by Bundesland are included in Figure 3, below.
Figure 2: Overview of persons with regularised status, toleration status, asylum seekers and persons due to leave in Germany at the end of 2010

Around 140,000 regularised persons at the end of 2010, approx. 2 percent of the total foreign population

Source: own presentation based on Deutscher Bundestag 2011, data originally drawn from central register of foreign citizens
Figure 3: Numbers of regularised persons and percentage in total foreign population at the end of 2010

Source: own presentation based on Deutscher Bundestag 2011, due to technical reasons the percentage for Berlin (3%) and Bremen (2.9%) are not shown.
3. Impact of regularisations on labour market outcomes of regularised immigrants

3.1. Review of existing studies

There are not many statistics or studies available on the labour market situation of tolerated or regularised persons in Germany. One data set and analysis was collected in the above mentioned evaluation of the ESF programme supporting the labour market integration of tolerated and regularised persons in Germany. The data are thus only covering persons who were involved in the programme and therefore have received some sort of support (mostly counselling). The dataset cannot be considered representative of all persons of the target population including persons with toleration status, regularised persons (under the “Bleiberecht”/ §23(1) AufentG) and asylum seekers with access to the labour market. There is probably a bias towards persons who have problems with labour market access, because persons who have found work and consider their labour market integration as successful are unlikely to seek help.

The programme evaluation shows that the target population face particular difficulties to find a job in the regular labour market for several reasons. Difficulties arise from lack of language knowledge, lack of recognition of qualifications, problems with interacting with labour market institutions, restricted access to the labour market as well as prejudiced employers and lack of cooperation by representatives from local authorities. Consequently, the study points to the need of support of the target population in accessing the labour market (Mirbach & Schobert 2011). As a result from an intermediate analysis of the data in September 2010 it can be shown that there are different needs according to residence status. Asylum seekers more often need support with learning the language. Over half of interviewed asylum seekers, who received support in the first wave of the programme, received support in language acquisition, while this was true for only a third of tolerated persons and only 18 percent of regularised persons. Support in qualification and job orientation as well as placement in jobs and education were more often provided to persons with tolerated status and even more often to persons with regularised status (Mirbach & Triebl 2010). Due to absence of more in depth analysis, it cannot be concluded that the regularisation had an effect on the better situation of regularised persons, though it can also not be rejected. The study also points to the problems of de-qualification, which was experienced by the entire target population.

14 The influence of length of residence is not known.
The data base built in the framework of the evaluation is being extended to a longitudinal data collection (i.e. repeated interviews with same persons) and further results on labour market trajectories can be expected. Altogether, almost half of all persons participating in the programme found a job or training (Mirbach, Triebl & Farrokzhad 2013).

Another study analysed the income situation of tolerated and regularised immigrants in Germany by the Federal Office for Migration and Refugees (Lukas 2011). The analysis is based on a panel dataset (Arbeitsmarkt und soziale Sicherung (PASS)) from the Federal Agency for Labour. The study shows that foreign citizens in general work more often in low-wage employment because persons of this group more often do not have vocational training. Low-wage employment appears to be the most important sector for tolerated persons in Germany providing the only opportunity to get work and consequently obtain a residence permit. In general the employment rate of persons with tolerated status is really low at some 11 percent. It seems crucial to support vocational qualification of tolerated and regularised persons in Germany for successful integration into the German labour market.

3.2. Results from the feasibility study

In the course of the study qualitative interviews were conducted with persons with regularised status and persons with toleration status. Interviews followed semi-structured guidelines developed in the framework of the REGANE study and carried out by two researchers during summer 2013 (Manuel Assner and Vesela Kovacheva under supervision by Dita Vogel). The interviews give further insight into the life situation of persons with insecure residence status and about challenges and benefits of regularising their residence status in Germany. This section presents selected cases where the link between legal status and employment is discussed. The cases show that the trajectories regarding residence and employment are very heterogeneous but strongly interrelated. Besides exploring the situation of regularised and tolerated persons in Germany, the interviews also served as a valuable experience concerning challenges faced while doing interviews on the sensitive topic of legal status and potentially informal employment.

A man from Senegal came to Germany in 2012 as a tourist to join his wife, who was about to give birth to their daughter. After that he quickly obtained a toleration status, probably due to the child’s right to a father, and after several prolongations obtained legal status in 2013 (it remained unclear which regulation). Only after obtaining a residence permit, he was allowed to work, could access language courses for free and was allowed to travel. He has a university degree and worked as a banker in Senegal, a job he would like to do in Germany.
as well. He is now taking German classes and hopes to be able to do vocational training, which allows him to work as banker in Germany (Interview DE-H-1-3).

A woman from Egypt arrived in Germany with her parents at the age of five in 1998. She and the rest of her family obtained toleration status in the same year. The family remained tolerated until the beginning of 2013, probably due to the impossibility to deport them due to lack of proof of country of origin. Since she was allowed to work she started looking for an apprenticeship and found one. She obtained a contract with her employer, which allowed her to apply for regular status, but only after obtaining a passport from Egypt. After she got her passport, she could obtain regular residence. Her parents did not dare to apply for a passport in fear of being deported. Consequently, her parents still have toleration status. The woman suffered a lot during her school time under her status, since she could not take part in any school trip, since she was not allowed to leave Hamburg and she also could not travel to other countries, like her schoolmates did. Moreover, she did several internships, mainly because she was not allowed to work with toleration status (Interview DE-H-1-4). Here the availability of work was the main factor for being regularised, while this was not true in the first case. The major difficulty in this second case was the lack of a passport.

The lack of a passport on the one hand may prevent deportation and lead to a toleration status, but on the other hand seems to present a major barrier for obtaining a more secure status. A woman from Cote I’voire has been living without residence status in Germany since the beginning of 2012. Due to absence of a passport and low chances of obtaining asylum as citizen of Cote I’voire she does not know how to obtain legal status. She is currently doing a German course and desperately wants to work, but cannot find any work without a work permit (Interview DE-H-2-7).

Lack of work permit obviously presents an obstacle to obtain work. An immigrant from Cameroon arrived in Germany in 2010 and remained in the country for two years without documentation. He seemingly worked irregularly as a cleaner and obtained toleration status. Soon after obtaining toleration he lost his job, because the employer was controlled by the labour inspection. Though the employer would have wanted to continue employing him, it was not possible without a work permit. He expects to get a work permit in the near future, but for the moment he concentrates on improving his German. After obtaining a work permit, he wants to do vocational training (Interview DE-2-2).

From these few examples, it can be seen that (legal) access to the labour market does not only provide opportunities for (legal) employment, but legal status also allowed persons to
concentrate on training and education. The cases also show that the impact of legal status on labour market integration need to be analysed in conjunction with biographical factors, such as age, length of residence, time between immigration and legalisation, language knowledge, work experience, education and family situation of the persons concerned.

4. Conclusion

As one of the most important receiving countries of immigrants in Europe, Germany also has to deal with irregular migration, although the extent is much lower compared to Southern European countries and the nature of irregular migration differs. Many persons with irregular, unclear or insecure status applied for asylum in Germany at one point. Access to legal status for illegally residing persons is in principle possible through two steps. First persons might obtain toleration status, which means that deportation is suspended for a limited time period because return is not possible. Second, there are laws which allow specific groups of persons and individual cases of persons with toleration status (but potentially also persons with other statuses) to obtain legal residence status.

There are not many studies investigating the impact of legal status on employment trajectories in Germany. Based on semi-structured interviews and existing literature, it was found that structural factors such as access to the labour and access to support seem to be a precondition for successful labour market integration. In any case the length of residence in the country is an important factor for integration. The interviews conducted strongly suggest that legal status and regularisation play an important role for one’s labour market integration. Nevertheless, it needs to be kept in mind that migrants and particularly refugees (recognised or not) are a group in need of special support for their labour market integration, most notably due to the need of learning the language, lack of information and social networks and other disadvantages brought along by the process of moving to another country. While the strong relation of regularisation on opportunities on the German labour market is without question, more research is needed to illuminate the driving factors behind the relationship of legal status and labour market integration for proper policy development.
5. References


