

Country Fiche for Germany

Final version (information stated as at 30.04.2021)

This country fiche is being used to collect information on residence formalities for EU citizens and their family members in selected Member States.

The information for the country fiche has been collected by the research team through desk research based on available public reports and official information.

Please note that this country fiche is only intended to address the situation of EU citizens seeking registration as workers, self-employed persons, jobseekers, together with their family members, whatever their nationality. It does not address residence formalities that apply to other categories of EU citizens such as students and self-sufficient persons.

Section A: Legal framework	Information collated for this Member State
<p>1. How has Directive 2004/38 been transposed in this Member State?</p>	<p>Directive 2004/38 has been transposed into German law by the Act on the General Freedom of Movement for EU Citizens¹ (hereafter referred to as the 'Free Movement Act') and the General Administrative Regulation on the Free Movement Act² (hereafter referred to as the 'Free Movement Regulation'). These are supplemented by guidance notes.³ In addition, various provisions contained in the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory⁴ (hereafter referred to as the 'Residence Act'), the General administrative regulation for the Residence Act⁵ (hereafter the 'Residence Regulation') and the Ordinance Governing Residence⁶ (hereafter referred to as the 'Residence Ordinance') are of relevance.</p>
<p>2. Which legal instruments regulate residence formalities in this Member State?</p>	<p>The rules on residence formalities are contained in sections 2 to 5a of the Free Movement Act and regulations 2 to 5a of the Free Movement Regulation.</p>
<p>3. Do the national measures explicitly extend to nationals from Iceland, Liechtenstein, Norway and Switzerland?</p>	<p>Yes. EEA nationals from Iceland, Liechtenstein and Norway fall explicitly within the scope of the Free Movement Act.⁷ Swiss nationals are extended the same treatment in practice in application of the EU-Swiss Agreement on the Free Movement of Persons.⁸</p>

¹ Gesetz über die allgemeine Freizügigkeit von Unionsbürgern, "Freizügigkeitsgesetz" vom 30. Juli 2004 <http://www.gesetze-im-internet.de/freiz_gg_eu_2004/BJNR198600004.html>.

² Allgemeine Verwaltungsvorschrift zum Freizügigkeitsgesetz/EU vom 3. Februar 2016 <http://www.verwaltungsvorschriften-im-internet.de/bsvwbund_03022016_MI12100972.htm>.

³ Anwendungshinweise zur Umsetzung des Gezetzes zur aktuellen Anpassung des Freizügigkeitsgesetzes/EU und weiterer Vorschriften an das Unionsrecht vom 21. Januar 2021 <https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/verfassung/anwendungshinweise-umsetzung-freizuegigkeitsgesetz.pdf?__blob=publicationFile&v=4>

⁴ Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet, "Aufenthaltsgesetz" vom 30. Juli 2004 <http://www.gesetze-im-internet.de/aufenthg_2004/index.html>

⁵ Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz vom 26. Oktober 2009 <https://www.verwaltungsvorschriften-im-internet.de/bsvwbund_26102009_MI31284060.htm>.

⁶ Aufenthaltsverordnung vom 25. November 2004 <<http://www.gesetze-im-internet.de/aufenthv/>>.

⁷ Free Movement Act, section 12.

⁸ Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons [2002] OJ L 114/6.

<p>4. Do the national measures explicitly extend to the family members of this Member State's own nationals?</p>	<p>No.</p>
<p>5. Have any problems been noted as regards the transposition of residence formalities in this Member State?</p>	<p>Yes. In its 2008 report,⁹ the European Commission noted that Germany had failed to transpose the provision on 'other family members'¹⁰ correctly. This problem in transposition has only partially been addressed by amending legislation.¹¹ As regards the German transposition of the provision on registered partners,¹² this was considered ambiguous by the Commission. However, this was subsequently addressed to ensure that registered partners are treated in the same way as married couples as regards their residence rights.¹³ It was also noted that the German administrative practice previously imposed a condition of prior lawful residence¹⁴ which was modified following the Court of Justice's ruling in <i>Metock</i>.¹⁵ The report also noted that the German rules had not correctly transposed the obligation to facilitate entry and residence of direct ascendants and descendants of students,¹⁶ which is a persisting issue.¹⁷ The right of workers to retain their status following unemployment¹⁸ was also not correctly transposed, given that German law only provides for the retention of the right of residence rather than the status of a worker.¹⁹ This issue has also yet to be resolved.²⁰</p> <p>In addition, it should also be noted that the legal text on the right to residence was amended in 2014 so that EU jobseekers now enjoy an unconditional right to residence for six months, after which period they continue to be entitled to residence if they can provide evidence that they are continuing to seek employment and that they have a genuine chance of being employed, which arguably appears to be in line with the CJEU's rulings,²¹ although there have been</p>

⁹ European Commission, Report to the European Parliament and the Council on the application of Directive 2004/38 (COM(2008) 840 final), p. 4.

¹⁰ Directive 2004/38, Art. 3(2). Germany has not specifically transposed this provision. For this category of "other family members", they can only invoke section 36(2) Residence Act (*Aufenthaltsgesetz*) which gives German authorities the discretion to grant a residence permit in order to avoid particular hardship. This does not appear sufficient to transpose the obligation to facilitate the residence rights of "other family members".

¹¹ *Gesetz zur aktuellen Anpassung des Freizügigkeitsgesetzes/EU und weiterer Vorschriften an das Unionsrecht vom 12. November 2020*

<https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBL&start=//*/%5B@attr_id=%27bgbl120s2416.pdf%27%5D#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl120s2416.pdf%27%5D_1634832573192>.

¹² Directive 2004/38, Art. 2(2)(b).

¹³ Ferdinand Wollenschläger et al, 'Obstacles to the right of free movement and residence for EU citizens and their families - Country report for Germany' (PE 556.963, European Parliament 2016), p. 11 <[https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556963/IPOL_STU\(2016\)556963_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556963/IPOL_STU(2016)556963_EN.pdf)>.

¹⁴ European Commission (2008) (n 9), p. 4.

¹⁵ Case C-127/08 *Metock* EU:C:2008:449.

¹⁶ European Commission (2008) (n 9), p. 6.

¹⁷ Wollenschläger et al (n 13), p. 13.

¹⁸ Directive 2004/38, Art. 7(3).

¹⁹ European Commission (2008) (n 9), p. 6.

²⁰ Wollenschläger et al (n 13), p. 13.

²¹ Case C-292/89 *Antonissen* EU:C:1991:80 ; Case C-710/19 *G.M.A.* EU:C:2020:1037.

	complaints that this has led to systematic verification of the residence rights of jobseekers. ²²
6. Have any problems been noted as regards the practical application of residence formalities in this Member State?	<p>Yes. Various problems have been identified in the recent report by the NGO ECAS on obstacles faced by EU citizens,²³ drawing upon the enquiries received by the Commission's 'Your Europe Advice' service.²⁴</p> <p>Several problems have been reported in Germany as regards the registration of the non-EU family members of EU citizens. For example, there are reports of E workers being requested to provide evidence of sufficient resources and private health insurance in order for their non-EU family members to be issued with a residence card.²⁵ Those working part-time or on interim contracts also faced similar problems.²⁶ There are also delays being reported in the issuance of residence documentation to non-EU family members by the German authorities,²⁷ as well as delays in securing an appointment to register.²⁸ It is also reported that the rules on the right of workers to retain their status following unemployment are not respected in practice.²⁹</p> <p>In addition, there are also reports of non-EU family members facing difficulties and delays when applying for entry visas at German consulates abroad in order to join or accompany their EU relative in Germany.³⁰</p>

Section B: Nature of residence formalities	Information collated for this Member State
1. Is registration compulsory for EU citizens and their family members? If registration is not obligatory, is voluntary registration possible?	<p>In 2013, Germany abolished the obligation incumbent on EU citizens to register.³¹ Germany has not provided any possibility for EU citizens to obtain a registration certificate on a voluntary basis.³²</p> <p>Non-EU family members of EU citizens are obliged to apply for a residence card.³³</p>

²² Wollenschläger et al (n **Fout! Bladwijzer niet gedefinieerd.**), p. 12.

²³ Anna Nicolau, 'Freedom of Movement in the EU: A look behind the curtain' (ECAS, 2018) <<https://ecas.org/wp-content/uploads/2018/03/ECAS-Long-report-final.pdf>>.

²⁴ Your Europe Advice is an independent service of the European Commission managed by ECAS, which provides personalised information and advice on EU rights including residence formalities <https://europa.eu/youreurope/advice/index_en.htm>.

²⁵ Nicolau (n 23) pp. 50-51.

²⁶ *ibid.*

²⁷ *ibid.*, pp. 56-57.

²⁸ *ibid.*, p. 47.

²⁹ *ibid.* p. 61.

³⁰ *ibid.*, pp. 28, 31-37.

³¹ Amending Act of 21 January 2013 (*Gesetz zur Änderung des Freizügigkeitsgesetzes/EU und weiterer aufenthaltsrechtlicher Vorschriften vom 21. Januar 2013*) <https://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F*%5B%40attr_id=%27bgbl113s0086.pdf%27%5D%27%5D>.

³² It is not possible for EU citizens to voluntarily apply for and obtain a registration certificate. Free Movement Act, section 5(3) only provides for verification of the right of residence by the German authorities which may, for specific reasons, investigate whether the requirements for the right of residence continue to be met.

³³ Free Movement Act, section 5.

	<p>Separately, it should be noted that Germany has made use of the option contained in Article 5(5) of Directive 2004/38 to require EU citizens and their family members to report their presence to the local registration office³⁴ by making a declaration within two weeks days of moving into a new domicile in Germany.³⁵ This requirement forms part of the rules relating to the registration of the population which also applies to German nationals.³⁶</p> <p>Failure to register one’s domicile is an administrative offence³⁷, which is sanctioned by a fine of up to €1,000,³⁸ which also applies to German nationals.</p>
2. What is the deadline for EU citizens and their family members to register?	<p>As registration is not compulsory for EU citizens, there is no deadline within which EU citizens are required to register.</p> <p>Non-EU family members of EU citizens are obliged to apply for a residence card within three months of their arrival.³⁹</p>
3. What penalty applies for failure to register within the deadline?	<p>There is no obligation for EU citizens to register their residence.</p> <p>There is no penalty imposed on non-EU family members who fail to apply for a residence card within three months of their arrival.</p> <p>However, as mentioned above failure to register one’s domicile is an administrative offence⁴⁰, which is sanctioned by a fine of up to €1,000,⁴¹ which also potentially applies to German nationals.</p>
4. What authority makes the decision on the registration of EU citizens and their family members?	<p>The authority which decides on an application for a residence card submitted by non-EU family members of EU citizens is the local foreigners’ authority.⁴²</p>

Section C: Preparatory phase	
1. What on-line information is made available to EU citizens and their family members?	<p>It has been reported that information on EU residence formalities in Germany is highly fragmented and contained on different sites.⁴³ The websites of both the Federal Ministry of the Interior (BMI)⁴⁴ and the Federal Agency for Migration and</p>

³⁴ This refers to the *Meldebehörde*.

³⁵ Federal Act on Registration (*Bundesmeldegesetz*) <<https://www.gesetze-im-internet.de/bmg/>>. Section 17(1) provides that “[a]nyone who moves into a residence shall register with the registration authorities within two weeks of moving in.”

³⁶ *ibid*.

³⁷ Federal Act on Registration, section 54(2), point 1.

³⁸ Federal Act on Registration, section 54(3).

³⁹ Free Movement Act, section 5(2).

⁴⁰ Federal Act on Registration, section § 54(2), point 1.

⁴¹ Federal Act on Registration, section 54(3).

⁴² Free Movement Act, section 5(3) which refers to the *Ausländerbehörde*.

⁴³ ICF GHK/ Milieu ‘Evaluation of EU rules on free movement of EU citizens and their family members and their practical implementation – Country Fiche for Germany’ (Report for the European Commission, 2013), p. 2.

⁴⁴ The website of the Federal Ministry of the Interior (*Bundesministerium des Innern, für Bau und Heimat*) can be found at the following url <<https://www.bmi.bund.de/>>.

	<p>Asylum (BAMF)⁴⁵ contain a dedicated channel for EU citizens.⁴⁶ These tend to provide summary information covering EU citizens, non-EU family members and permanent residence. The information which is presented is relatively brief and is generally considered to be of relatively poor to low quality.⁴⁷</p> <p>The information contained on the websites of local authorities tends to vary depending on location.⁴⁸ However, again the information is relatively brief and there is no step-by-step overview of the application process, nor is there any information contained on related issues, such as deadlines, fees and appeals.⁴⁹</p>
2. In what language is this information available?	The BMI's website provides information in both German and English, but the information available in English is significantly less comprehensive. ⁵⁰
3. What other means of assistance are available EU citizens and their family members wanting to obtain information on registration procedures?	No additional means of assistance appear to be available at national level. At municipal level, information can sometimes be obtained by email or by telephone.

Section D: Application phase	Information collated for this Member State
1. What procedure applies to the lodging of an application for registration of EU citizens and their family members?	<p>Registration is not obligatory for EU citizens and there is no voluntary registration process enabling them to obtain a registration certificate.</p> <p>Non-EU family members must apply for a residence card at the local registration office.⁵¹ A prior appointment may need to be made depending on locality. There is no standardised application form available online.</p> <p>The completed application form and supporting documents is then forwarded by the local registration office to the local foreigners' authority⁵² which will take a decision on the application.⁵³</p> <p>It should be noted that EU citizens and family members who take up residence in Germany must have first made a declaration in person to the local registration</p>

⁴⁵ The website of the Federal Agency for Migration and Asylum (*Das Bundesamt für Migration und Flüchtlinge*) can be found at the following url <<https://www.bamf.de/>>.

⁴⁶ The dedicated BMI page relating to EU citizens and their family members was consulted <<https://www.bmi.bund.de/DE/themen/migration/aufenthaltsrecht/freizuegigkeit-eu-buerger/freizuegigkeit-eu-buerger-node.htm>> together with the FAQs on residence rights <<https://www.bmi.bund.de/SharedDocs/faqs/DE/themen/migration/freizuegigkeit/freizuegigkeit-liste.htm>>. The corresponding page on the BAMF website was also consulted <<https://www.bamf.de/DE/Themen/MigrationAufenthalt/ZuwandererEuropa/zuwanderereuropa-node.html>>.

⁴⁷ ICF GHK/ Milieu (n 43), p. 1

⁴⁸ Ibid, p. 4.

⁴⁹ Ibid.

⁵⁰ The English version of the dedicated page relating to EU citizens and their family members can be found on the BMI website <<https://www.bmi.bund.de/EN/topics/migration/law-on-foreigners/freedom-of-movement/freedom-of-movement-node.html>> and the corresponding page on the website of the BAMF <<https://www.bamf.de/EN/Themen/MigrationAufenthalt/ZuwandererEuropa/zuwanderereuropa-node.html>>.

⁵¹ Free Movement Act, section 5(3), which refers to the *Meldebehörde*.

⁵² Free Movement Act, section 5(2).

⁵³ Ibid.

	office within two weeks of moving into their domicile. ⁵⁴ This obligation is not related to the right of free movement ⁵⁵ and applies to all residents ⁵⁶ including German nationals.
2. Does an application for registration by EU citizens and their family members have to be made in person?	Registration is not obligatory for EU citizens and there process enabling them to obtain a registration certificate on a voluntary basis. Non-EU citizens must submit their application in person to the local registration office. ⁵⁷
3. Does an application for registration by EU citizens and their family members require a prior appointment to be made?	Yes. A meeting must be arranged with the local registration office ⁵⁸ which will then transmit the applications to the local foreigners' authority which will make the decision. ⁵⁹
4. What is the average waiting time for obtaining an appointment for registration by EU citizens and their family members?	No information is available. In practice, delays have been reported in non-EU family members obtaining an appointment to register. ⁶⁰
5. What information and documentation do EU citizens and their family members have to produce to start the registration process?	Non-EU family members must furnish the supporting documentation at the time they apply for a residence card. ⁶¹ It should be noted that, in order to start the registration process, EU citizens and their family members must first have first registered their domicile. Alternatively, non-EU family members must do so at the time of applying for a residence card. <i>see Section G below for further details on documents required</i>
6. Are non-EU family members required to produce an entry visa when applying for registration?	No. There is no such requirement in the law. However, in practice, it has been reported that non-EU family members are sometimes required by the local authorities to show that they hold an entry visa when they apply for a residence card and told to return to their home country to apply for a visa. ⁶² Such practices are likely to be contrary to the case law of the EU Court of Justice. ⁶³
7. Are EU citizens and their family members issued with a certificate of application upon submitting an application?	A certificate of application should be issued immediately to non-EU family members who apply for a residence card. ⁶⁴

⁵⁴ Federal Act on Registration, section 17(1).

⁵⁵ ICF GHK/ Milieu (n 43) p. 1.

⁵⁶ Federal Act on Registration, section 17(1).

⁵⁷ Free Movement Act, section 5(3), which refers to the *Meldebehörde*.

⁵⁸ *ibid*.

⁵⁹ Free Movement Act, section 5(2).

⁶⁰ *ibid*, p. 47.

⁶¹ Free Movement Act, section 5(2).

⁶² Nicolau (n 23), pp. 21, 37-38 and 47.

⁶³ Case C-459/99 *MRAX* EU:C:2002:461 and Case C-508/03 *Commission v Spain* EU:C:2006:287.

⁶⁴ Free Movement Act, section 5(1).

<p>8. Following the lodging of an application, do EU citizens and their family members benefit from a further deadline to submit all relevant documentation proving their right of residence?</p>	<p>No. It is anticipated that non-EU family members applying for a residence card have to provide all supporting documents at the time they submit their application.</p>
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Section E: Verification of domicile	Information collated for this Member State
<p>1. Does the registration process involve a physical verification of the domicile of the EU citizens and their family members?</p>	<p>The German rules giving effect to the Directive do not involve a physical verification of domicile. Under the rules on the registration of the population, only a declaration of domicile needs to be made by the person providing accommodation or their agent.⁶⁵</p>
<p>2. In practice, how long does the verification of domicile typically take to complete?</p>	<p>No specific information could be obtained.</p>

Section F. Registration phase	Information collated for this Member State
<p>1. What is the deadline for making decisions of applications?</p>	<p>Registration is not obligatory for EU citizens and there is no possibility to obtain a registration certificate. A residence card should be issued to non-EU family members within six months of submitting an application.⁶⁶</p>
<p>2. In practice, how long does the registration procedure typically take to complete? Have any specific problems been identified in practice?</p>	<p>There is no data available on the average duration of the application process.⁶⁷ In practice, delays are being reported in the issuance of residence documentation to non-EU family members by the German authorities.⁶⁸</p>
<p>3. What kind of residence documentation is issued to EU citizens and their family members?</p>	<p>EU citizens cannot obtain a registration certificate. A residence card (<i>Aufenthaltskarte</i>) in the uniform residence permit format laid down by Regulation 1030/2002⁶⁹ with the label '<i>EU-Familien-Angehöriger – Art 10 RL 2004/38/EG</i>'⁷⁰ will be issued to family members.⁷¹ It should be noted that while Directive 2004/38 provides that a residence card should be valid for a period of five years or the envisaged period of residence of the</p>

⁶⁵ Federal Act on Registration, section 17(1).

⁶⁶ Free Movement Act, section 5(1).

⁶⁷ ICF GHK/ Milieu (n 43) p. 10.

⁶⁸ *ibid*, pp. 56-57.

⁶⁹ Regulation 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals [2002] OJ L 157/1.

⁷⁰ See sample DEU-HO-22002 available on PRADO <<https://www.consilium.europa.eu/prado/en/DEU-HO-22002/index.html>>.

⁷¹ Free Movement Act, section 5(1).

	EU citizen, ⁷² the German authorities have been reported to issue residence documents with a limited validity of one to three years without apparent reason. ⁷³
4. What additional functions (if any) do the different types of residence documents have in relation to public services (e.g. in relation to tax, health, social security, use as an electoral card)?	EU citizens cannot obtain a registration certificate. The residence cards and permanent residence cards issued to non-EU family members of EU citizens are reported to provide a digital signature capability. ⁷⁴
5. What additional functions (if any) do the different types of residence documents have in relation to private-sector services (e.g. in relation to the right to work, access to banking or transport services)?	EU citizens cannot obtain a registration certificate. The residence cards and permanent residence cards issued to non-EU family members of EU citizens are reported to provide a digital signature capability. ⁷⁵
6. What is the cost to the individual citizen applying for residence documents?	The fee payable by non-EU family members in respect of an application for a residence card is €28.80 for adults and €22.80 for those under the age of 24. ⁷⁶ The fees are similar to the fees which are charged for the issuance of identity cards to German nationals. ⁷⁷
7. Can the registration procedure be completed on-line?	No. There is no on-line application service available.
8. Is there an expedited registration procedure or premium service available?	No. There is no expedited or premium application service available.

Section G: Documentary requirements	Information collated for this Member State
1. What documentation is required from EU citizens and their family members in order to prove their identity? Have any specific problems been identified in practice?	Registration is not obligatory for EU citizens. However, the German authorities are empowered to verify the right of residence of EU citizens provided they have been residing in Germany for over three months. ⁷⁸ In such a case they may be asked to produce a valid passport or identity card. ⁷⁹ Non-EU family members must provide a valid passport. ⁸⁰
2. What documentation is required from EU citizens applying to register as a worker? Have any specific problems been identified in practice?	In the context of verification of the right of residence by the German authorities, ⁸¹ an EU citizen who is residing as a salaried worker may be required to provide an employment contract or a signed declaration from their employer. ⁸²

⁷² Article 11 of Directive 2004/38.

⁷³ Nicolau (n 23), p. 59.

⁷⁴ CSES, 'Study to Support the Preparation of an Impact Assessment on EU Policy Initiatives on Residence and Identity Documents to Facilitate the Exercise of the Right of Free Movement' (Report for European Commission, 2017), p. 62 <https://ec.europa.eu/info/sites/info/files/dg_just_final_report_id_cards_and_residence_docs_cses_28_august_2017_2.pdf>.

⁷⁵ *ibid.*

⁷⁶ Free Movement Regulation, para. 5.1.6.

⁷⁷ Residence Ordinance, section 47(3).

⁷⁸ Free Movement Act, section 5(2); see also Free Movement Regulation, para. 5.2.1.

⁷⁹ Free Movement Act, section 5a(1).

⁸⁰ Free Movement Act, section 5a(2).

⁸¹ Free Movement Act, section 5(2); see also Free Movement Regulation, para. 5.2.1.

⁸² *ibid.*

<p>3. What documentation is required from EU citizens applying to register as a self-employed person? Have any specific problems been identified in practice?</p>	<p>When verifying the right of residence,⁸³ an EU citizen who is residing as a self-employed worker may be requested by the German authorities to provide proof of self-employment.⁸⁴</p>
<p>4. What documentation is required from EU citizens applying to register as a jobseeker? Have any specific problems been identified in practice?</p>	<p>When verification of the right of residence⁸⁵ is being undertaken in respect of EU jobseekers, they may only be required to demonstrate that they are looking for employment and have a ‘reasonable prospect of being hired’ after having resided in Germany for six months.⁸⁶</p> <p>Although the German rules appear to be in line with the CJEU’s rulings,⁸⁷ there have been complaints that this has led to systematic verification of the residence rights of jobseekers.⁸⁸</p>
<p>5. What documentation is required of family members to prove the existence of a family relationship? Have any specific problems been identified in practice?</p>	<p>Non-EU family members must provide documentary proof of their family relationship.⁸⁹</p> <p>No specific problems have been identified in this respect.</p>
<p>6. What requirements apply as regards translation and legalisation? Have any specific problems been identified in practice?</p>	<p>Any official civil status certificate drawn up abroad is required to bear an apostille⁹⁰ or to be legalised⁹¹ (unless exempted under an international agreement⁹² or when covered by Regulation 2016/1191).⁹³</p> <p>A document which is not issued in German will need to be accompanied by an official translation,⁹⁴ unless the document is accompanied by a multilingual standard form issued in accordance with Regulation 2016/1191.⁹⁵</p>
<p>7. Have any other specific problems been noted as regards the documentary requirements concerning residence formalities in this Member State?</p>	<p>No specific problems have been identified in this respect.</p>

⁸³ Free Movement Act, section 5(2); see also Free Movement Regulation, para. 5.2.1.

⁸⁴ *ibid.*

⁸⁵ Free Movement Act, section 5(2); see also Free Movement Regulation, para. 5.2.1.

⁸⁶ Free Movement Act, section 2(2)(1a).

⁸⁷ Case C-292/89 *Antonissen* EU:C:1991:80 ; Case C-710/19 *G.M.A.* EU:C:2020:1037.

⁸⁸ Wollenschläger et al (n **Fout! Bladwijzer niet gedefinieerd.**), p. 12.

⁸⁹ Free Movement Act, section 5a(2).

⁹⁰ This is the means of officially certifying public documents pursuant to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, which the Netherlands have ratified <<https://www.hcch.net/en/instruments/conventions/full-text/?cid=41>>.

⁹¹ This is confirmed on the website of the Federal Foreign Office (*Auswärtiges Amt*) <<https://www.auswaertiges-amt.de/en/urkundenverkehrteilb/231968>>.

⁹² An official listing of the international agreements relating to legalisation which Germany can be found on the website of the Federal Foreign Office (n 91).

⁹³ Art. 4, Regulation (EU) 2016/1191 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union [2016] OJ L 200/01.

⁹⁴ This is confirmed on the website of the Federal Foreign Office (*Auswärtiges Amt*) <<https://www.auswaertiges-amt.de/en/urkundenverkehrteilb/231968>>.

⁹⁵ Art. 6, Regulation 2016/1191.

Section H: Permanent residence	Information collated for this Member State
<p>1. Is permanent residence recognised to EU citizens and their family members in this Member State?</p>	<p>Yes. Article 16(1) of Directive 2004/38 has been transposed into German law. EU citizens acquire a right of permanent residence after a continuous period of five years of lawful residence in Germany.⁹⁶ Family members also acquire a right of permanent residence after a continuous period of five years of lawful residence with their EU relative in Germany.⁹⁷</p>
<p>2. Is permanent residence documentation automatically issued, or must an EU citizen and their family member make a specific request for such documentation?</p>	<p>No. EU citizens and their family members who want to obtain a permanent residence document must apply for it.⁹⁸</p>
<p>3. What is the procedure that applies when EU citizens and their family members request permanent residence documentation?</p>	<p>EU citizens and their non-EU family members may apply for a permanent residence document at any time after having completed five years of continuous residence.⁹⁹ There is no obligation on non-EU family members to apply before expiry of their residence card.¹⁰⁰ Applications for permanent residence documents must be submitted in person.¹⁰¹</p>
<p>4. What documentation is required to apply for permanent residence documentation?</p>	<p>Applicants have to provide documentary evidence that shows uninterrupted lawful residence in Germany during a period of five years.¹⁰² The rules do not further specify what documentation is required to be submitted.</p>
<p>5. Are EU citizens and their family members issued with a certificate of application?</p>	<p>The German rules do not provide for the issue of a certificate of application to EU citizens or their family members who apply for a document attesting permanent residence.</p>
<p>6. What is the deadline for making a decision on an application?</p>	<p>EU citizens should be issued with a document certifying permanent residence as soon as possible.¹⁰³ A permanent residence card should be issued to non-EU family members within six months of their application being submitted.¹⁰⁴</p>
<p>7. In practice, how long does an application for permanent residence typically take to complete?</p>	<p>There is no data available on the average duration of the application process.¹⁰⁵</p>

⁹⁶ Free Movement Act, section 4a(1).

⁹⁷ *ibid.*

⁹⁸ Free Movement Act, section 5(5).

⁹⁹ Free Movement Act, section 5(5).

¹⁰⁰ *Ibid.*

¹⁰¹ ICF GHK/ Milieu (n 43) pp. 1 and 8.

¹⁰² Free Movement Act, section 5(5).

¹⁰³ Free Movement Act, section 5(5).

¹⁰⁴ *ibid.*

¹⁰⁵ ICF GHK/ Milieu (n 43) p. 10.

	In practice, delays are being reported in the issuance of residence documentation to non-EU family members by the German authorities. ¹⁰⁶
8. What kind of permanent residence documentation is issued to EU citizens and their family members?	EU citizens will be issued with a paper-based document. ¹⁰⁷ Non-EU family members will be issued with a permanent residence card in the uniform residence permit format laid down by Regulation 1030/2002 with the label ' <i>EU-Familien-Angehöriger – Art 20 RL 2004/38/EG</i> '. ¹⁰⁸ While the German rules are silent on this point, in practice a permanent residence card has not expiry date. ¹⁰⁹
9. What is the fee charged to EU citizens and their family members applying for permanent residence documents?	The fee payable by EU citizens for a permanent residence certificate is €8.00 whereas the fee payable by non-EU family members in respect of an application for a permanent residence card is €28.80 for adults and €22.80 for those under the age of 24. ¹¹⁰ The latter fees are similar to the fees which are charged for the issuance of identity cards to German nationals. ¹¹¹
10. Can the application be completed on-line?	No on-line application service exists.
11. Is there an expedited registration procedure or premium service available?	No expedited or premium service exists
12. Have any other problems been noted as regards applications for permanent residence in this Member State?	No other problems have been reported in practice.

¹⁰⁶ *ibid*, pp. 56-57.

¹⁰⁷ CSES (n 74), p. 19.

¹⁰⁸ No sample is available on PRADO. However, this is required by Regulation (EU) 2019/1157 of the European Parliament and of the Council of 20 June 2019 on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement [2019] OJ L 188/67, Art. 7(2).

¹⁰⁹ CSES (n 74), p. 37.

¹¹⁰ Free Movement Regulation, para. 5.5.2.

¹¹¹ Residence Ordinance, section 47(3).

Section I: Appeals	Information collated for this Member State
<p>1. In case of a refusal, can EU citizens and their family members have recourse to an administrative review process? If so, what administrative authority is competent to conduct such a review? What is the deadline for requesting administrative review?</p>	<p>No. There is no procedure for making a request for administrative review.</p>
<p>2. In case of a refusal, can EU citizens and their family members have recourse to a judicial appeal process?</p>	<p>Yes. A judicial appeal can be filed before an administrative court.¹¹²</p>
<p>3. What judicial authority is competent to hear such appeals?</p>	<p>A judicial appeal lies before the administrative court¹¹³ at first instance.¹¹⁴ A further appeal¹¹⁵ lies before the Administrative Court of Appeal.¹¹⁶ A final appeal¹¹⁷ lies before the Supreme Administrative Court.^{118,119}</p>
<p>4. What is the deadline for lodging a judicial appeal?</p>	<p>A request for judicial review must be brought within one month following the date on which the administrative decision has been announced.¹²⁰</p>
<p>5. What is the nature of the judicial review process? Does it suspend the effects of the decisions under appeal? What are the fees for lodging a judicial appeal?</p>	<p>A judicial appeal involves a control of the legality of the decision¹²¹. When annulling a contested decision, the Court may provide directions to the administrative authority on how a decision should be remade.¹²² A judicial appeal suspends the effect on the decision which is being contested before the court.¹²³ A judicial appeal involving the residence rights of EU citizens and their family members incurs payment of court fees,¹²⁴ which is currently €114.¹²⁵</p>

¹¹² Rules of Administrative Court Procedure (*Verwaltungsgerichtsordnung*) <<https://www.gesetze-im-internet.de/vwgo/>>, section 42.

¹¹³ This refers to the *Verwaltungsgericht*.

¹¹⁴ Rules of Administrative Court Procedure, section 45.

¹¹⁵ Rules of Administrative Court Procedure, section 46.

¹¹⁶ This refers to the *Oberverwaltungsgericht*.

¹¹⁷ Rules of Administrative Court Procedure, section 49.

¹¹⁸ This refers to the *Bundesverwaltungsgericht*.

¹¹⁹ Further information can be found on the website of the *Bundesverwaltungsgericht* <<https://www.bverwg.de/en/rechtsprechung/verwaltungsgerichtsbarkeit/aufbau-der-verwaltungsgerichtsbarkeit>>.

¹²⁰ Rules of Administrative Court Procedure, section 74.

¹²¹ Rules of Administrative Court Procedure, section 114.

¹²² Rules of Administrative Court Procedure, section 113.

¹²³ Rules of Administrative Court Procedure, section 80.

¹²⁴ Rules of Administrative Court Procedure, section 162.

¹²⁵ Act on Court Fees, (*Gerichtskostengesetz*) <https://www.gesetze-im-internet.de/gkg_2004/BJNR071810004.html>, section 34 read in combination with Annex I, Part 5 (proceedings before the courts of administrative jurisdiction).

Section J: Impact of residence formalities on equal treatment	Information collated for this Member State
<p>1. Has Article 25 of Directive 2004/38, which provides that the exercise of a right or completion of an administrative formality should not be conditional upon possession of a residence document, been accurately transposed in this Member State?</p>	<p>This provision has not been explicitly transposed.¹²⁶</p>
<p>2. Have any problems been noted as regards the impact of residence formalities on equality of treatment for EU citizens and their family members?</p>	<p>In Germany, the courts have been very active in referring cases to the EU Court of Justice as regards the right to equal treatment under EU law and its application to EU citizens claiming non-contributory social assistance.¹²⁷ This case law shows that the authorities tasked with granting social assistance are accustomed to assessing the existence of a right of residence when EU citizens claim benefits. As a result, the abolition of the registration requirement does not appear to have led to any additional difficulties in administrative practice relating to the grant of social assistance to EU citizens and their family members.</p>

¹²⁶ Ludwig Krämer and Lukas Rass-Masson, 'Conformity Study for Germany - Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' (Report for the European Commission), p. 8 <https://200438ecstudy.files.wordpress.com/2013/05/germany_compliance_study_en.pdf>, in which it is reported as follows: "An important conformity issue in practice is related to Article 25 of the Directive and the general provisions concerning residence documents. There is indeed no direct transposing provision in the German legislation. However, no legislation has been identified requiring the possession of one of these documents as a precondition for the exercise of a right or the completion of an administrative formality. The legislation analysed included main acts and main case law relevant to this situation. However, in order to avoid any abusive administrative practice, it would be necessary to have an explicit legislative text imposing the respect of the present article. This Article is very important in practice, and there should be a clear legal indication for all authorities that possession of a registration certificate, of a document certifying permanent residence, of a certificate attesting submission of an application for a family member residence card, of a residence card or of a permanent residence card, may under no circumstances be made a precondition for the exercise of a right or the completion of an administrative formality, as entitlement to rights may be attested by any other means of proof."

¹²⁷ Case C-333/13 *Dano* EU:C:2014:2358; Case C-67/14 *Alimanovic* EU:C:2015:597; Case C-299/14 *García-Nieto* EU:C:2016:114; Case C-181/19 *Jobcenter Krefeld v JD* EU:C:2020:794.