

# Attracting and retaining startup founders and employees:

## The case of Germany

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Das Forderprogramm „Integration durch Qualifizierung (IQ)“ wird durch das Bundesministerium fur Arbeit und Soziales gefordert

**Part 1: Selfemployment under the Residence Act**

**Part 2: Application Process and other Articles**

**Part 3: Law on the immigration of skilled employees  
(Fachkräfteeinwanderungsgesetz)**

**Part 4: Start-ups in Germany**

**Part 5: Eco-System for Start-ups in Germany**

**Part 6: Activities of the State and the German Länders**

**Part 7: Challenges for innovative entrepreneurs**

**Part 8: Conclusion**

## There is no Start-Up Visa or Fast Track for Start-Ups or Innovative Start-Ups

### § 21 AufenthG: for persons who want to start their own business

- Par. 1 (trade)
- Paragraph 2a for academics: if you would implement self-employment in an occupational field that shows a proximity to your studies, is facilitated to apply by the immigrant office
- Par. 5 (Liberal professions)

However, if academics or researchers decide to become self-employed in their scientific field and receive a residence permit, it can be assumed that a high proportion will start as an innovative entrepreneur.

## Requirements

- The same regulations and requirements apply to start-up founders as to all founders who wish to start their own business in Germany.
  
- Verification that the formal requirements and qualifications have been fulfilled;
- Curriculum vitae proving entrepreneurial skills and abilities;
- Indication of where the company is to be founded;
- Business and financial plan showing that
  - (i) the economic interests of the region are taken into account,
  - (ii) positive economic effects are achieved; and
  - (iii) the financing of self-employment and livelihood is secured.

## Duration of the residence permit: depending of your business

- The duration of the residence permit is depending on the type of self-employment:
- In the case of self-employment in a trade, a permanent permit can be applied for after three years of successful self-employment.
- In the case of self-employment in a liberal profession, a permanent permit can be applied for after five years of successful self-employment.
- Exception: Academics and researchers can apply for a permanent permit after only two or three years of successful self-employment.
- Please note: During this period, the immigrant office can check the economic viability and withdraw the residence title if there is no guarantee of subsistence of the business.

## Administrative regulations interpret the law

- Describes the implementation of the law - in fact the administrative rules apply
- Last changes in 2009: reforms not included and were not described
- Employees of the immigration offices comply with administrative regulations
- Business plan in the focus - some investments still required

## Responsibilities and decision-makers

- German embassies or missions abroad must be contacted personally. Some of them have an online procedure for the forms.
- Formalities: Business and financial plan a mandatory (basis of the decision) as well as further documents (qualifications, curriculum vitae). Important: Place of foundation
- Local immigrant authorities decides on the application: in RLP there are 36 immigrant authorities (each city and each county)
- The Chambers of Commerce and the Economic Development Agency issue a statement on the business and financial plan.
  
- Duration: different - from several weeks to several months

## Other residence articles allow self-employment.

- There are 92 different residence articles for persons from non-EU countries in Germany.
- 47 have a regulated, unrestricted permit to carry out any self-employed activity,
- 39 concerning the possibility, at the discretion of the immigrant office to become self-employed,
- 6 on a prohibition in principle of self-employment.
- Consequence: Intransparency and not transparent.
- Consequence: no valid data on self-employed persons per year.
- However: over 400,000 foreign self-employed in Germany and not all about § 21



## Reforms with the Immigration of Skilled Workers Act

- The Fachkräfteeinwanderungsgesetz (01.03.2020) leads to a paradigm shift: every residence permit allows self-employment unless prohibited by law. Up to now, it has been the case that selfemployment had to be explicitly allowed in the residence permit, otherwise "only" dependent employment was possible.
- However, this change in the law does not apply exclusively to the creation of start-ups or innovative entrepreneurs by third-country nationals, but to all forms of foundation by third-country nationals.
- However: no fundamental simplification if § 21 is applied for - not even with regard to the procedure. Only the recognition of the professional qualification is simplified; this could become important if the qualification is required for starting self-employment.

## Reforms with the Immigration of Skilled Workers Act

- The Fachkräfteeinwanderungsgesetz (01.03.2020) simplifies the recognition of vocational qualifications for skilled employees and enables them to assume a job in a start-up or innovative company. However, recognition of the vocational qualification is required.
- Assuming that start-ups or innovative companies need skilled employees, this will make it easier for another group to move to Germany in addition to those with a blue card.
- However, both the Blue-Card regulation and the future law on the immigration of skilled employees do not aim at targeted support for start-ups and innovative entrepreneurs from third countries, but rather as a priority at support for companies already existing in Germany.

- **The residence act precedes the establishment of a start-up company: it is more important than a businessplan**
- **Start-ups must have the same requirements as any other foundation.**
- **Start-ups have the same rights as all other foundation.**
- **Start-ups do not exist in the residence act.**
  
- **Immigration of skilled employees under the premise of (dependent) employment and not selfemployment.**
- **Immigration law for skilled employment with a paradigm shift.**

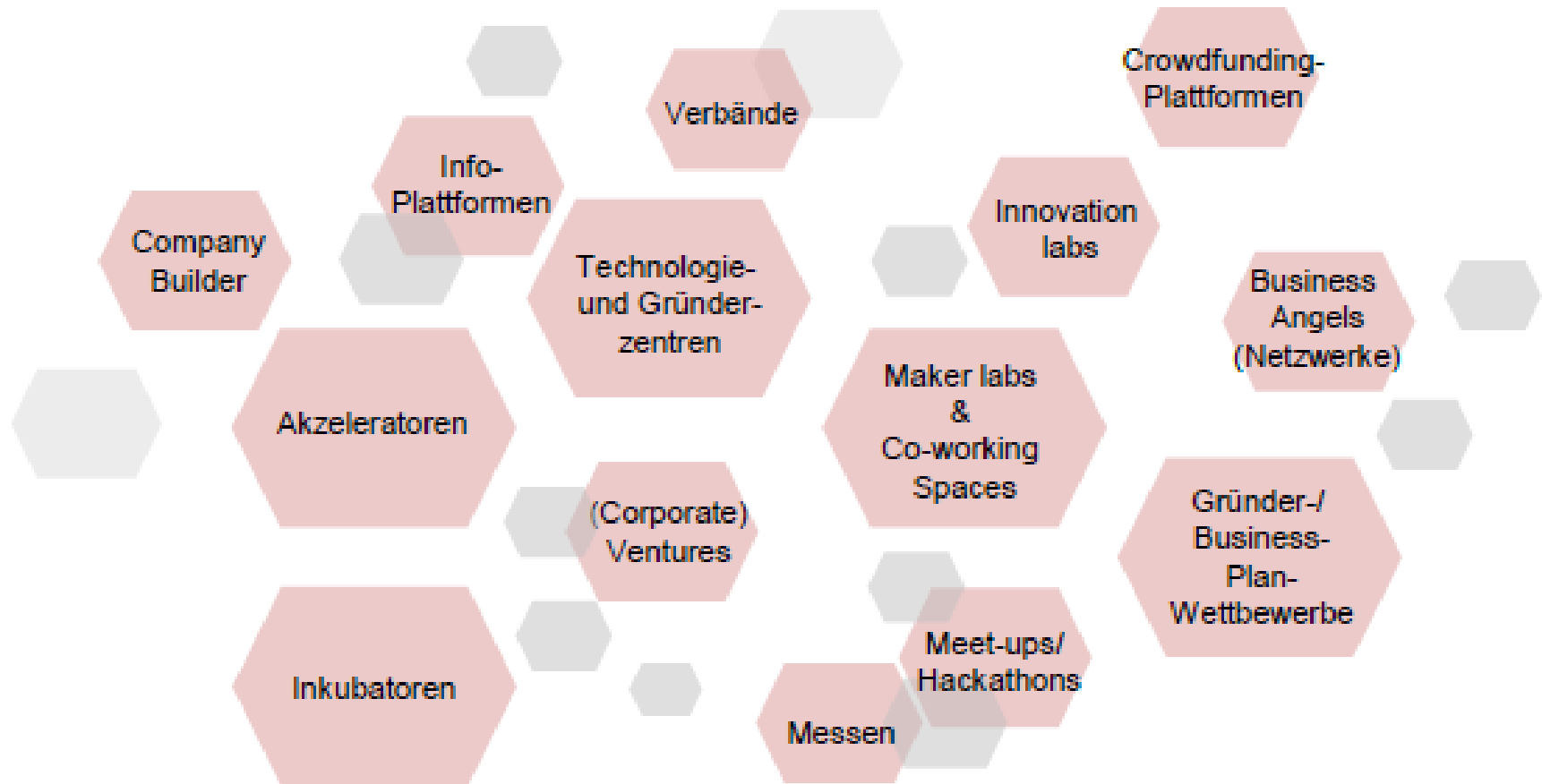
There is no official legal definition of the term "start-up" in Germany.

- In practice, a general term is used:
  - Startups are younger than 10 years (age)
  - Have a (planned) employee/sales growth and/or (growth course)
  - are (highly) innovative in their products/services, business models or technologies (degree of innovation)
  
- BMBF has a stricter definition:
  - Start-ups are young companies that have been on the market for less than five years, have innovative technologies or business models and show or aim for significant growth in their workforce or sales."
  - Start-ups are also attractive cross-border employers: (30% of their employees come from abroad)

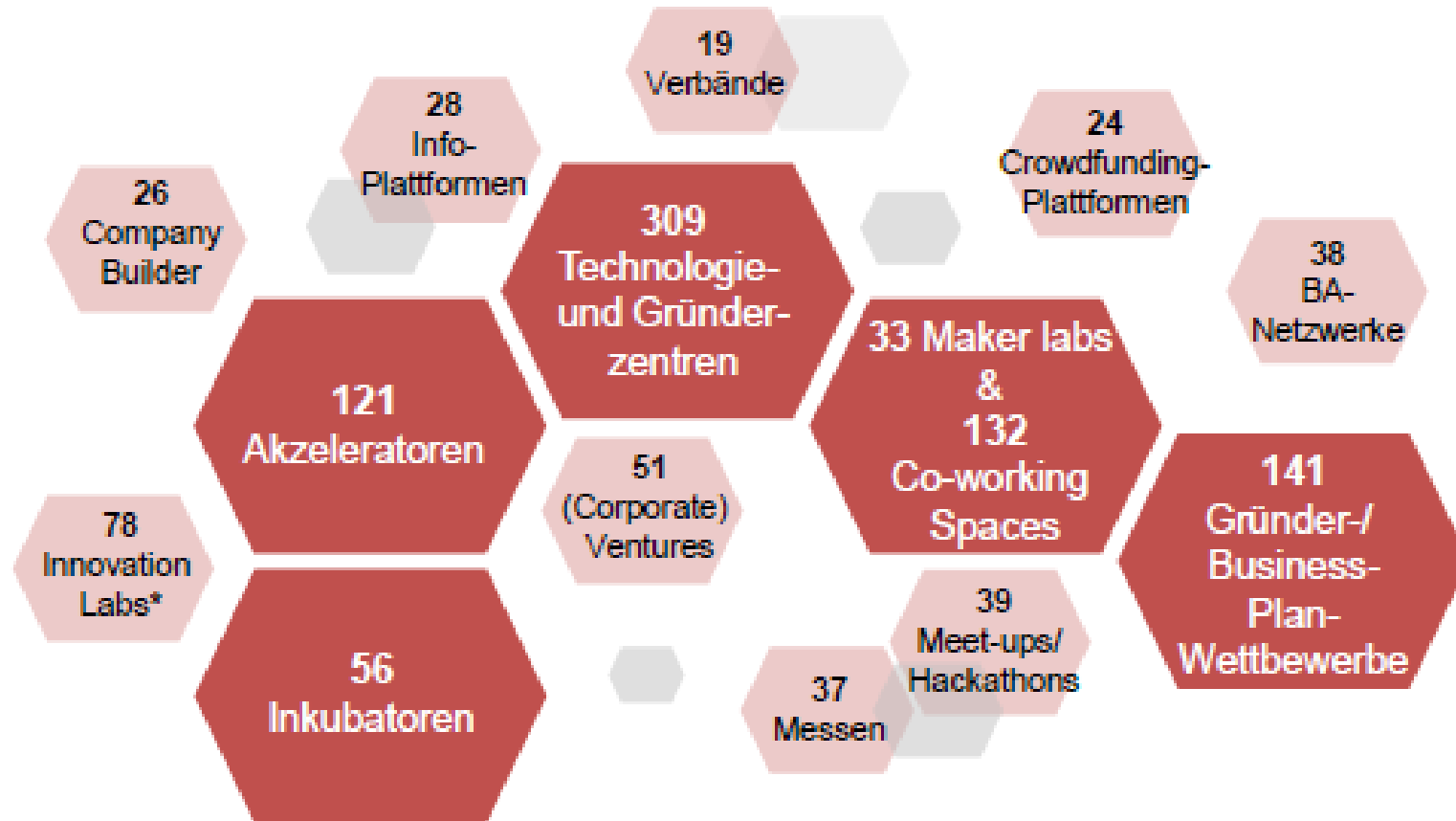
## Start-up scene in Germany in need of optimisation.

- Experts and stakeholders increasingly consider the start-up scene to be not competitive, especially compared to the start-up ecosystems in Denmark, Great Britain, France or Israel.
- A study by the BMWi (2018) also shows a range of needs for action.
- Federal government promotes structural framework conditions: Financing instruments, scholarships geared to German start-ups. Instruments very untransparent and numerous
- However: there are numerous support programmes
- However: there are a lot of financing programmes

# Ecosystem for Start-ups



# Ecosystem for Start-ups



Quelle: Studie des BMWi, 2018

## Federal State and Länder governments with no specific programmes.

- So far, no political programmes or strategies at the federal level that are particularly and explicitly aimed at start-ups and innovative entrepreneurs from third countries.
- There are only a few specific programmes in a few German Länder that are specifically aimed at start-ups from third countries - but they do not have a high political priority, rather a political consideration.
- Local authorities are increasingly addressing young start-ups with innovative business models within the framework of their business development and technology centres.
- In theory, these programmes and instruments could also be used by third-country nationals, but only if they have already been established in Germany.



## Federal government with start-up initiative: but not especially for third countries

- Initiative "GO": ten points program. Three points are aimed at start-ups: capital, networking in Germany, networking abroad. - But not for third countries.
- Example for third countries: Start-up exchange programme GINSEP of the Startup Association for the promotion of Indo-German economic relations in the field of the young digital economy.
- Example for third countries: Location marketing for the recruitment of innovative start-ups - Digital Hub Initiative through which digital-based start-ups are currently accompanied in 12 regions with the necessary professional support.

## German Länder have their "own" strategy: completely different

- Promotion of innovative start-ups is in all German Länder has a political priority (listed in coalition agreements - but also clearly in programmes)
- Marketing the own region is extremely important: Campaigns and Internet platforms
- Most of the German Länder focus on supporting the expansion of the business activities of German start-ups abroad.
- Four subject areas: (i) technology promotion, (ii) scientific start-ups, (iii) further development of existing financing options and (iv) above all digital-based start-up projects.

## German Länder have twelve different instruments

- Promotion of digital start-ups: Network building and hubs
- Provision of capital
- Think Tanks: Strategy development for the promotion of start-ups
- Technology-oriented start-ups as a funding priority
- Accelerator Programs
- Administrative simplification / reduction of bureaucratic obstacles
- Target group-specific promotion/ e.g. the founding of women/young people
- Networking of founders/enterprises and promotion of the regional ecosystem
- Internationalisation of the German start-up business abroad
- Application of the federal state as a founding location
- Promotion of knowledge-based start-ups from the university

## There are many challenges for start-ups

- Knowledge of the right of residence and the requirements for applying for a residence permit;
- Lack of or insufficient support structure for the applicants - both with regard to the requirements for the right of residence and with regard to business planning and implementation;
- Knowledge of German bureaucracy and administration: Knowledge of the functions (tasks / services / obligations) of the institutions is low and makes the founding process more difficult;
- Knowledge of the tasks and services of the relevant institutions in the start-up process (e.g. chambers, business development) is scarce and sometimes misinterpreted.
- Long time-consuming processes in applying for and obtaining visas, which delay the application for a residence permit for too long;
- Knowledge of funding opportunities: the funding instruments are not transparent for persons from third countries;

## There are many challenges for start-ups

- **Access to existing financial instruments.** Due to the temporary residence permit (three years), bank loans are extremely difficult to obtain - there is no specific financing instrument for self-employed persons from third countries.
- **Finding qualified employees for one's own company;** recruiting skilled workers is very difficult for migrant companies because of the need for skilled workers;
- **Recognition of professional qualifications.** Almost all vocational qualifications acquired in the country of origin are not recognised as equivalent in Germany, so that additional qualifications are required. Due to the formal qualification requirements in many occupational fields, these have to be made up for in order to become self-employed.
- **Language skills:** even if the German language skills are not absolutely necessary for the start-up itself, the business plan must be written in German and communication in Germany with customers or suppliers is also usually in German. Start-up-related German is only offered in a few cases.

## Strategic need for coordination: activities / instruments / residence law

- **(Legal) definition of start-ups:**
  - enables targeted funding programmes
  - enables a "Fast Track" under residence law
  - enables optimisation of the foundation process
  
- **Awareness of start-ups of persons from third countries and their significance for the German economy**
  
- **Transparency of existing instruments and activities (and dissemination)**
  
- **Evaluation of existing instruments and strategic orientation towards the recruitment of international start-ups**
  
- **Learning from others - Transfer of good examples**

**Thank you for your attention**

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