VISARIGHT

# LEGAL ASSESSMENT

Rechtliche Einschätzung · Family Reunification (Familiennachzug)

PREPARED FOR

**Mr Arjun Deshpande**
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Germany

SAMPLE DOCUMENT

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|---|---|
| Assessment no. | **VR-LA-2026-0417** |
| Date of issue | **30.07.2026** |
| Questionnaire received | **29.07.2026, 16:42 CEST** |
| Subject matter | **Spouse & child reunification** |
| Assessed by | **RA Eva Witt** |
| Legal position as at | **30.07.2026** |

## 01 The information you submitted

Taken from your questionnaire of 29 July 2026. Every conclusion below depends on these details being accurate and complete — please check them.

| SPONSOR (THE PERSON ALREADY RESIDENT IN GERMANY) | | | |
|---|---|---|---|
| Name | Arjun Deshpande | Nationality | India |
| Date of birth | 14.08.1991 | Arrival in Germany | 21.10.2024 |
| Residence title | EU Blue Card, **§ 18g AufenthG** | Issued / valid to | 06.11.2024 / 05.11.2028 |
| Issuing authority | KVR München | Gross salary p.a. | € 78.400,00 |
| Occupation | Senior Software Engineer, permanent contract | Housing | 3 rooms, 74 m², München-Sendling |

| APPLICANTS (CURRENTLY ABROAD) | | | |
|---|---|---|---|
| Spouse | Priya Deshpande, née Kulkarni | Born / nationality | 03.02.1994 / India |
| Residence | Kothrud, Pune, Maharashtra | German language | None |
| Child | Aarav Kulkarni, son of the spouse | Born / age | 11.06.2017 / 9 |
| Marriage | 09.03.2026, Pune — Hindu Marriage Act, registered 17.03.2026 | Child's custody | Joint (Family Court Pune, 12.09.2022); father in Pune |

## 02 The facts as we understand them

You have lived and worked in Munich since October 2024 on an EU Blue Card valid until November 2028. In March 2026 you married Mrs Priya Deshpande in Pune under the Hindu Marriage Act. Your wife has never lived in Germany and holds no German language certificate. She has a nine-year-old son, Aarav, from a marriage dissolved in Pune in 2022; under that decree she and the boy's biological father, who remains in Pune, hold *joint* custody. You ask whether your wife must first pass a German examination, whether Aarav can join without his father, and how long the procedure will take.

## 03 Our assessment in brief

**Your wife — spouse reunification**

### Strong

Legal entitlement, not discretion

She has an **enforceable right** to the residence permit under **§ 30 I 1 AufenthG**. Critically, the German language requirement **does not apply to her**, and neither does the minimum-living-space test. The realistic variable is processing time, not outcome.

**Aarav — child reunification**

### Good, but conditional

Three conditions must be met first

Reunification is available under **§ 32 III AufenthG** despite joint custody, but turns on the father's formal consent, on the Pune decree surviving German recognition, and on proof of housing. All three are within your control — if addressed **before** filing.

## 04 Legal analysis

### 4.1 Your wife: reunification with the holder of an EU Blue Card

The claim arises from **§ 30 I 1 AufenthG** with **§§ 27, 29 I AufenthG**. It is drafted as an entitlement ("*ist … zu erteilen*") — where its conditions are met the authority has no discretion to refuse. Your Blue Card falls under **§ 30 I 1 Nr. 3 lit. g**, carrying three structural advantages over an ordinary permit: **no two-year waiting period**, **no requirement that the marriage already existed** when your permit was issued, and no minimum expected length of stay. That you married sixteen months after moving to Munich is legally irrelevant.

**The German language requirement does not apply to her.** The A1 requirement in **§ 30 I 1 Nr. 2** (defined as CEFR level A1 by **§ 2 IX**) is expressly disapplied by **§ 30 I 3 Nr. 5 AufenthG** where the sponsor holds an EU Blue Card. Note the drafting: the exemption attaches to *your* status, not hers, and stands in the present tense — it must still hold on the day the visa is decided. This removes the most common cause of delay in this category. The minimum-living-space test falls away for her as well: **§ 29 V AufenthG** mandatorily dispenses with **§ 29 I 1 Nr. 2** for the spouse of a Blue Card holder.

**Secured livelihood, however, does apply** — **§ 5 I Nr. 1** with **§ 2 III AufenthG**. The authority sets household net income against the notional SGB II need: for three people in 2026, standard rates of € 506 + € 506 + € 390 = **€ 1.402** plus actual rent and heating. One point regularly got wrong: you remain in **tax class I** until your wife takes up residence here — § 1a EStG opens the splitting classes only to EU/EEA nationals — so the figure to use is the class I net of roughly € 3.800, not the class III net. From it deduct the income-related allowances of **§ 11b II SGB II**; the employment allowance under § 11b III must *not* be deducted (ECJ, *Chakroun*, C-578/08; BVerwG 1 C 20.09). The margin remains substantial. The binding calculation is made by the Ausländerbehörde, not the consulate.

Two further consequences: her permit will be **issued for exactly the remaining term of your Blue Card** (**§ 27 IV 2**), and it allows any employment without further authorisation (**§ 4a I 1**). An independent right of residence follows after three years of marital cohabitation here (**§ 31 I 1 Nr. 1**).

### 4.2 Aarav: the child does not join you — he joins his mother

This is where such applications most often go wrong. Aarav is your *stepchild*. Under the General Administrative Regulation to the Residence Act (No. 32.0.5), a stepchild's reunification "*takes place not with the step-parent but with the biological parent, on the strength of that parent's right of residence*". His claim therefore rests on **§ 32 I Nr. 3 AufenthG**, anchored on his mother's forthcoming § 30 permit — not on your Blue Card. Your income nonetheless counts, the household forming a single benefit unit, and **no declaration of undertaking (Verpflichtungserklärung) is required from you**. Do not let this be routed through § 36 II AufenthG as an "other family member" case; that footing is materially worse.

**Joint custody is not an obstacle.** **§ 32 III AufenthG** provides that where custody is shared, the permit *shall* nonetheless be granted for reunification with one parent alone if the other has declared his consent, or a binding decision of a competent authority exists. As a "*soll*" rule this is directed discretion: in the normal case it must be granted, refusal being reserved for exceptional cases such as indications of abuse. You do **not** need sole custody and should not seek it — Indian family law generally leaves the father residual guardianship rights, so such an assertion would be fragile under BVerwG, 01.12.2009 – 1 C 32.08.

**No German language requirement applies to Aarav.** The C1 test in **§ 32 II 1** bites only from the completed sixteenth year, and he stays exempt even at 16 or 17 under **§ 32 II 2 Nr. 2** (children of a Blue Card holder's spouse).

**Housing, by contrast, must be evidenced for him.** The § 29 V waiver is drafted by reference to the child *of* the Blue Card holder; on the wording it does not reach a stepchild whose reunification runs through the mother's § 30 permit. We found no published authority resolving this, and advise simply satisfying it. The benchmark is 12 m² per family member aged six or over — about **36 m² here**. Your 74 m² flat clears it; what is needed is the evidence in the file.

## 05 The three risks we consider material

- **The Pune custody decree may fail German recognition on a procedural point.** India is not party to the 1996 Hague Child Protection Convention, so the decree is assessed incidentally under **§§ 108, 109 FamFG**. German public policy requires, where there is sufficient domestic connection, that a child aged three or over was heard in some form before the decision. Aarav was five in 2022. If the decree records no hearing, cure this from the court record or an affidavit *before* filing — a frequent and avoidable refusal ground.
- **Do not have your Indian documents apostilled.** Germany objected to India's accession to the Hague Apostille Convention, so it does not apply between the two states, and legalisation by the German missions in India ceased in 2000. An apostille achieves nothing. What the mission may order instead is a document verification (*Urkundenüberprüfung*) through its trusted lawyer — at the Consulate General Mumbai currently INR 45.000 and some six weeks plus courier time. A complete, internally consistent evidence package is the only way to reduce that risk.
- **Do not move to a non-listed residence title while the applications are pending.** Both waivers above are tied to your *current* possession of a Blue Card. Changing employer within the Blue Card is harmless, and the authority's 30-day veto window under **§ 18g IV 2** expired in November 2025. A move to an ordinary employment permit outside the listed categories would, however, revive the A1 requirement mid-procedure.

## 06 What we recommend you do

1. **File both applications simultaneously, as a group application in the Consular Services Portal.** Your wife will hold only a national visa when Aarav applies; the Administrative Regulation (No. 29.1.2.2) expressly permits the child's visa where the parent's title is granted at the same time. The portal has supported group applications from one account since November 2025, and online filing is operationally compulsory in India where the category exists. The competent post for Pune is the **Consulate General Mumbai**.
2. **Apply now to KVR München for a pre-approval (Vorabzustimmung)** under **§ 31 III AufenthV**. The accelerated procedure of § 81a AufenthG is *not* open to you: it is an employer-driven route for a worker who has yet to enter, and the administrative guidance ties its family extension to entry within six months of the skilled worker's own. You arrived in October 2024. The pre-approval is discretionary, but it is the most effective lever on timing still available to you.
3. **Obtain the complete Pune court record** and establish whether Aarav was heard. If the file is silent, instruct Indian counsel to procure the hearing minutes or, failing that, an affidavit and short opinion on the point.
4. **Arrange for the biological father to attend the Consulate General Mumbai in person** to sign his declaration of consent. The German missions in India require this; a notarised Indian declaration alone should not be relied upon.
5. **Prepare the marriage evidence package as the mission expects it:** registration certificate, temple or priest certificate, and photographs showing the essential rites were performed. Originals, or copies certified by a German authority — Indian notarial certifications are not accepted here.
6. **Put the tenancy agreement and a landlord confirmation of the 74 m² floor area in the file**, with six months of payslips and confirmation of family health-insurance cover from your Krankenkasse.

## 07 Realistic sequence and timing

| STAGE | ACTION AND REALISTIC EXPECTATION |
|---|---|
| **Weeks 0–3** | Assemble documents; apply to KVR München for the pre-approval; instruct Indian counsel on the court record. |
| **Weeks 3–5** | File the group application in the Consular Services Portal; digital pre-check by the mission; book appointments. Fees € 75 (spouse) and € 37,50 (child), plus the VFS service fee. |
| **Weeks 5–10** | Appointments at the Consulate General Mumbai for biometrics and originals. Aarav must attend in person, though the Mumbai post lets minors accompany a parent rather than book a separate slot. The father's consent appointment can be scheduled alongside. |
| **Month 3 onward** | Decision. The missions state only that processing "may take several months" and will not answer status enquiries within the first three months. Add six to ten weeks if a document verification is ordered. |
| **If refused** | The remonstration procedure was abolished worldwide on 01.07.2025. What remains is a fresh application or an action before the Administrative Court of Berlin — one month from service, or one year where the refusal carries no proper instruction on remedies (§ 58 II VwGO). Refusals are issued in German only. |

**BOTTOM LINE**

Your wife's application is a strong one, and should not require you to wait for a language certificate. Aarav's is winnable on the same timetable — but only if the custody consent and the Pune court record are dealt with before filing, rather than in answer to a query from the consulate. The decisive risk here is procedural, not substantive.

## 08 Scope and limitations

This assessment states the law of the Federal Republic of Germany as at **30 July 2026** and is based solely on the information and documents you supplied on 29 July 2026; we have not independently verified them and no examination of original documents has taken place. It is individual legal advice given by a Rechtsanwältin admitted in the Federal Republic of Germany and does **not** constitute a mandate to act, nor representation before any authority or court. No assurance can be given as to the outcome of a discretionary decision by the visa authority. Where no published authority exists on a point, this is stated expressly in the text. Should this assessment be shown to contain an incorrect statement of law, our fee is refunded in full. **Sample document** — the persons, dates and figures used above are fictitious and are shown for illustration only.

Eva Witt

**Eva Witt**
Rechtsanwältin
Munich, 30 July 2026 · Qualified electronic signature (beA)

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