

Two steps forward, one step back.

Recent trends in German migration policy

Barbara Laubenthal (Ruhr-Universität Bochum)

Ricerca condotta nell'ambito del progetto:

POLITICHE MIGRATORIE E MODELLI DI SOCIETÀ

Realizzato con il sostegno di

COMPAGNIA
di San Paolo

Giugno 2008

CONTENTS

CONTENTS.....	2
INTRODUCTION.....	3
1. POLITICS AND POLICIES ON IMMIGRATION: STATE OF THE DEBATE.....	3
1.1. Reforms of German immigration policy (1998 - 2007).....	4
1.2. The integration of migrants as a policy aim	5
2. SELECTING MIGRANTS: ACHIEVEMENTS, TRENDS AND OPTIONS	6
3. MANAGING MIGRATION: CURRENT APPROACHES AND OPEN QUESTIONS.....	8
3.1. Government and political parties' positions on labour immigration.....	8
3.2. Current debates on labour migration: need (and fear) to change.....	9
3.3. Status adjustments for migrants.....	10
3.4. Rights of irregular migrants	10
4. NATIONAL AND EU LEVEL: WHICH RESPECTIVE ROLES?	11
REFERENCES.....	13

INTRODUCTION

“Integration policy is fundamental for the future of our country (...)”¹ – this statement in an open letter by seventeen leading politicians of the Christian Democratic Party (CDU) published in several German quality newspapers reflects a recent change in the perception and handling of immigration in Germany. From 1950 to 2000, Germany experienced the highest population gains from immigration in Western Europe (Zimmermann et al. 2007: 7).

As the last population census has shown, in 2006, 15.3 million people, i.e. almost 19 percent of the total population had a migration background², a figure almost equal to that of a “classical immigration country” such as the USA (Angenendt 2007; Bundesamt für Statistik 2007). However, the reality of Germany being an immigration country has for a long time been denied, and until the year 2000 German migration policy was characterised by the lack of a pro-active migration management and by important deficiencies in promoting the integration of migrants. Since the year 2000 a shift both in the public discourse and in policy approaches towards immigration has been observable. At present, both the issue of the integration of migrants and the question of an active labour migration policy are at the top of the political and public agenda. However, current public debates and policy initiatives remain ambivalent, reflecting both historically rooted defensive attitudes towards immigration and a new acknowledgement that Germany needs to develop an active immigration policy, especially in the field of labour migration. Attempts at a pro-active labour immigration policy only exist in the field of highly-skilled migration, and there is a preference for selective policies aiming exclusively at highly qualified migrants and/or migrants from EU countries.

1. POLITICS AND POLICIES ON IMMIGRATION: STATE OF THE DEBATE

After the phase of active labour recruitment from 1955 to 1973, until the turn of the century the *leitmotiv* for the handling of migration was the statement, formulated in 1977 by a Federal Commission on Immigration, that “Germany is not an immigration country”. This attitude was until the end of the 1990s recurrently emphasised by subsequent governments (Dangelmeier 2007: 47). It dominated the public and political discourse, influenced the political culture regarding migration and until the turn of the century contributed to preventing the establishment of an active immigration policy. Still, a structural integration of migrants in the German welfare and social security systems took place: “The defensive self-characterisation of Germany as a non-immigration country since the 1980s increasingly became functionless because of pragmatic changes in the administrative practice, encouraging the integration of migrants by legal provisions. Increasing long-term residence led to legal titles to the welfare state” (Bade 2007: 161). Furthermore the

¹ *Die Zeit*, 31.01.2008.

² The term ‘migration background’ was in 2005 introduced into the official German statistics. Persons with a migration background can be foreign or German citizens and include the following groups of people: foreigners born abroad, foreigners born in Germany, ethnic Germans, naturalised citizens who have themselves immigrated as well as their children who have no personal, direct experience of immigration. Persons with a migration background have either immigrated themselves or are the second or third-generation descendents of immigrants (Netzwerk Migration in Europa (ed.) .Country profile Germany, 1, May 2007).

integration of migrants was promoted by the activities of welfare organisations, local communities and local labour administrations, especially encouraging migrants' labour market participation (Borkert/Bosswick 2007: 14). However, the national approach to immigration remained defensive and was characterised by ambivalent and ad-hoc decisions. Not only was the need for an integration policy of the growing foreign population not acknowledged; also, starting with the official recruitment stop in 1973, regular channels for labour migration were restricted and for the next two decades, the policy aim was to prevent further labour migration to Germany. During the 1980s, the "lost decade of German immigration policy" (Bade 2007: 33), labour migration took place only indirectly: asylum-seekers and ethnic Germans³ occupied the low-skilled labour market segments. At the beginning of the 1990s, some programmes for the temporary employment of seasonal and contract workers were introduced. However the general recruitment ban remained the main principle of German immigration policy and prevented the emergence of a public debate about possible needs for labour migration. German migration policy generally followed a restrictive path during the 1990s, especially in the field of asylum and temporary protection regulations (Bosswick 2001: 50). German naturalization policies also reflected this defensive attitude towards immigration. They were rooted in the citizenship legislation of 1913 (*Reichs- und Staatsangehörigkeitsrecht*) and were guided by the principle of descent (*ius sanguinis*). Until 1991, German citizenship could only be attained by birth (if one parent was German) or by marriage to a German citizen. A reform of the alien's law in 1991 introduced the possibility to obtain German citizenship after fifteen years of legal stay in Germany and eased naturalization for foreigners between sixteen and 23 if they continuously stayed in Germany. However the overall framework still reflected the will to restrict the access to German citizenship (Borkert/Bosswick 2007: 13).

1.1. Reforms of German immigration policy (1998- 2007)

In 1998 the new social-democratic/green government led by chancellor Gerhard Schroeder initiated a reform process in the field of immigration. Its first project was a reform of the naturalization law. The main change was a partial introduction of the principle of birthplace (*ius soli*). Children of foreign parents born after 01.01.2000 now automatically qualified for citizenship if at least one parent was born in Germany or had legally lived in Germany for at least eight years. Children must opt for one nationality before their twenty-third birthday. Also, the possibility of naturalisation after eight years of legal residence was introduced.

Several activities of the new government entailed a change in the political and public perception on Germany's need for labour migration. In 2000, chancellor Gerhard Schroeder promoted the idea of a "Green Card", a five year work-permit scheme for IT specialists. Between 01 August 2000 and 31 December 2004 13.041 IT specialists entered the German labour market under the new scheme. However, more importantly, the Green Card initiative encouraged a public discussion about the need for labour migration and led to a growing acceptance both in the public and among political elites that Germany needed a pro-active management of immigration. Thus from 2000 onwards, the public perception on immigration shifted from the rejection of migration to a debate about "wanted" versus "unwanted" migration (Cyrus/Vogel 2005).

In 2001, the government appointed an Independent Commission on Immigration, assembling politicians, representatives of civil society organisations, churches, trade unions and migration experts. It was asked to propose a new legal framework for immigration. The Commission argued

³ Ethnic Germans (*Spätaussiedler*), so-called repatriates, originate from Central and Eastern Europe as well as from the former Soviet Union. Between 1950 and 1987, 1.4 million ethnic Germans came to Germany, primarily from Poland and Romania. Their number reached a peak in 1990 at 397,000. Between 1988 and 2005 a total of three million people entered Germany by this means (Netzwerk Migration in Europa 2007b).

in its report published on 4 July 2001 that against the background of an ageing society and future labour market gaps, Germany needed a pro-active migration management. It identified labour shortages in labour market segments with a specific demand for highly-skilled workers (Unabhängige Kommission Zuwanderung 2001: 87). The Commission suggested introducing a points system for selecting migrants based on the Canadian model, an idea that was however abandoned due to the opposition of the Christian Democratic Party (CDU). Also, the reform of the immigration law increasingly became the subject of party polemics, and against the background of the attacks on 9/11 and ensuing debates on security issues, the Christian-Democratic party deemed the new provisions as “too liberal” and prevented the passing of the law in the Second Chamber of the German Parliament (Bundesrat). After the re-election of the social-democratic/green government in 2002, negotiations about the immigration law started again and finally led to the passing of the law in July 2004, coming into force in January 2005: “(...) a historically belated, but historic law” (Bade 2007: 169, my translation, B.L.).

The Law for Managing and Containing Immigration and for the Regulation of the Residence and Integration of EU citizens and Foreigners (*Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern*) was welcomed by the overwhelming majority of political and civil society actors. It contains several provisions on the integration of migrants, regulations regarding migration on humanitarian grounds and regulations on labour market migration. For the first time all these issues were covered by a single legal framework.

On 28 August 2007, the most recent reform of the immigration law took place, transposing several EU directives into German law. The main changes introduced by the “Law implementing EU directives in the field of residence and asylum” were a) the introduction of “permission for permanent residence – EG” (new permanent residence permit), b) the adjustment of regulations regarding the permanent residence right for citizens of the EU and their family members, c) the introduction of a temporary residence right for victims of human trafficking for their participation in trials, d) the introduction of a special residence permit for researchers and of rules on international mobility of students, e) the establishment of the principle of “rights and duties” in the field of integration policies, f) access to the labour market after four years of stay for “tolerated foreigners” who cannot benefit from the 2007 regulation for a right to stay (*“Bleiberechtsregelung”*, see below, paragraph 3), and g) an adjustment of family reunification regulations, namely the introduction of a minimum age for spouses and basic language skills as preconditions for immigration.

1.2. The integration of migrants as a policy aim

Since the year 2000, the integration of migrants has become a topic of growing importance in public discourse, and it has become the subject of various policy initiatives. The results of the PISA study, showing that migrant children are structurally disadvantaged in the German education system, triggered an intense public debate about deficiencies in the integration of second and third generation migrants. The 2005 immigration law contains several provisions regarding the integration of migrants. New migrants eligible for permanent residence are entitled to participate in language courses that are funded by the federal government. For some types of migrants (long-term residents receiving welfare payments, migrants classified as “in special need of integration”) integration courses may be compulsory and non-compliance may be sanctioned (Borkert/Bosswick 2007: 9). Since 2005, approx. 237,000 migrants have taken part in the courses (Leise 2007: 3).

In March 2006, teachers of the *Rütli*-school in Berlin, a school with a high percentage of children with a migration background, publicly denounced violence and ethnic conflicts at their school. The events at the *Rütli*-school equally led to an intense public debate on the (lack of) integration of migrant children. The Christian-Democratic party (CDU) initially reacted with a proposal to further

restrict immigration to Germany. However, quality newspapers and state TV played an important role in changing the public perception on integration problems of migrants. They denounced the lack of integration of migrant children as the result of important deficiencies of German integration policy in the past, framed the non-integration of immigrants as danger for social cohesion and argued for the introduction of an efficient integration policy (Laubenthal/Nieland 2007). As a consequence, in autumn 2006, the Christian-Democratic/Social-Democratic government coalition convened a national “Summit on Integration”. Political actors of all levels of the federal system (Federal state, *Länder*, communities), civil society and migrant organisations, trade unions, media representatives and scientists were invited to discuss measures to improve the integration of migrants. On 12 July 2007, the second Summit on Integration took place, passing a National Agenda on Integration. The federal government committed itself to spending 750,000 Million Euro per year for integration measures and projects in the fields of education, language, professional training, civic participation and sports. While the outcome of these measures remains yet to be seen, it must be noted that - at least on a discursive level - the integration of migrants has been firmly established as a policy aim and is accompanied by an overall consensus of political elites that an active integration policy is needed. Furthermore, German media have become important actors in positively framing the issue of integration. Consequently migration experts have diagnosed a “genuine enthusiastic atmosphere of a new start as being officially an immigration country” (Bommes 2006: 10).

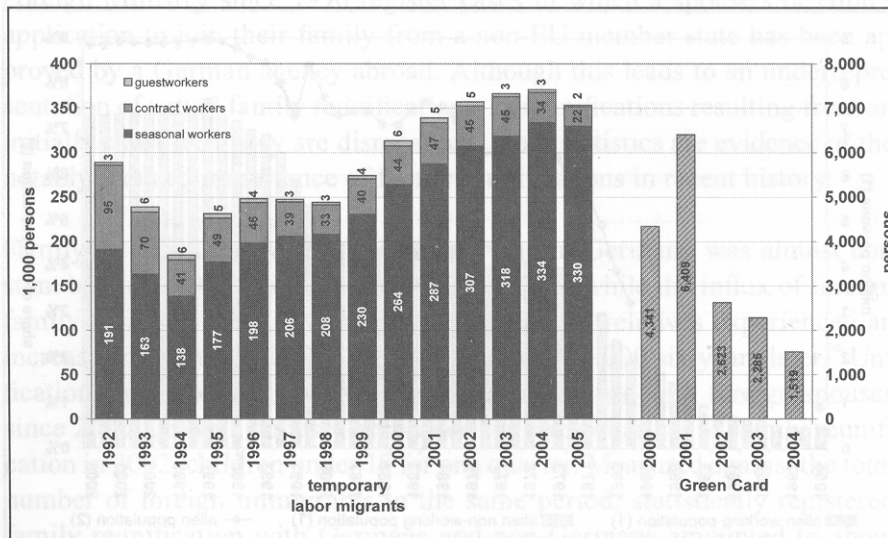
The reform of the citizenship law, initiatives in the field of integration and above all the passing of the immigration law in 2005 show that the German approach to immigration has changed. Furthermore, an important change of the last decade is that, as opposed to earlier phases of German migration policy, a growing degree of acceptance exists (at least among elites) of the idea that Germany needs some sort of pro-active labour migration management. Labour migration has been firmly established as a policy issue. However, the issue remains highly contested and is the subject of controversial debates. As a result, as we will see in more details below, the actual degree of policy innovation is still very limited.

2. SELECTING MIGRANTS: ACHIEVEMENTS, TRENDS AND OPTIONS

Until the passing of the immigration law in 2005, legal channels for labour migration to Germany were limited to channels for temporary labour migration into specific labour market segments. Until the year 2000, a more general need for labour immigration was scarcely discussed and mostly denied by political elites. However, despite the official recruitment ban in 1973, in view of specific labour shortages, a series of exceptions to the recruitment ban were introduced at the beginning of the 1990s. Based on the so called “decree on exceptions of the recruitment ban” (*Anwerbestoppausnahmeverordnung*), exceptions were introduced for au-pairs, specialists of international corporations, scientists and teachers, and nursing staff (Zimmermann 2007: 12). Bilateral agreements regulated the temporary immigration of “contract workers” and “seasonal workers”. Employees of Turkish or Eastern European firms who cooperate on a project with German companies may, based on specific quotas, become contract workers for a two- or three-year period. The regulations however aim at preventing permanent settlement; re-entry to Germany after the end of the contract is only permitted after an equally long stay in the country of origin (ibid). Another form of temporary labour immigration are regulations for seasonal workers. Based on bilateral agreements between the Federal Agency of Labour (*Bundesagentur für Arbeit*) and labour administrations of Eastern European countries, seasonal workers may be employed for a period of

max. three months, mainly working in agriculture and in the hotel and tourism industry (Zimmermann 2007: 12).

Temporary labor migration from non-EU countries



Notes: Other special forms of temporary immigration and work permit (specialized personnel of German-foreign corporations, artists, scientists, au-pairs, etc.) not included. Numbers in thousands based on addition of the three forms of labor migration referred to above.

Source: Federal Office for Migration and Refugees (BAMF), Migrationsbericht 2005.

Source: Zimmermann (2007: 28)

The 2005 immigration law represented a significant change in the handling of labour migration. The part that regulates the entry and stay of foreigners, the Residence Act (*Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet*), for the first time provides some channels for labour market immigration not as an exception but as a regular option (Vogel/Cyrus 2005). However the principle of a general recruitment stop is maintained. In its accompanying statement, the Ministry of Interior has underlined that the ban on recruiting foreign labour remains in effect for unskilled, semi-skilled and even skilled workers. Generally the residence act states that “the admission of foreign employees is dependent on the requirements of the German economy, according to considerations of the labour market situation and the need to effectively combat unemployment” (Residence Act, Art 18(1)). Two propositions that were put forward by the Independent Commission on Immigration and members of the government during the negotiations of the new immigration law – the introduction of a points-system for highly-skilled migrants and a selection process for permanent labour migration which would have admitted a certain number of qualified workers without them needing to have a concrete job offer – were abandoned (Zimmermann 2007: 35). The law limits types of residence permits from five to two: the temporary residence permit and the (permanent) settlement permit. Residence permits now refer to the purpose of stay. Thus a residence permit for the purpose of employment was introduced (Articles 18-22).

The law introduces legal provisions for the admission of highly-skilled and self-employed migrants. Highly-skilled workers may be immediately granted an unrestricted residence permit. Employment possibilities for highly-skilled migrants have however been provided with a high access level. Employed persons must have a minimum wage of 85.000 Euro per year. Regarding immigration channels for self-employed migrants, the Residence Act states that a foreigner can be granted a

residence permit for the exercise of a self-employed occupation if a superior economic interest or a special regional need exists, or if positive effects can be expected for the employment. According to the 2005 immigration law, self-employed migrants must offer at least ten jobs and invest 1 million Euro (Residence Act Art 21(1)). As part of the most recent reform of the immigration law in August 2007 the preconditions for self-employment by foreign nationals have been lowered to five new jobs and an investment of 500,000 Euro. The residence permit is limited to a three year period (Residence Act Art. 21 (4)). If the business is successful, a settlement permit may be granted. The restrictiveness of this regulation is reflected in the low number of highly-skilled workers that have entered the German labour market under the new provision: Between May 2005 and May 2007, only 1,650 residence permits for highly-skilled workers were issued.

The second innovation concerns the access of foreign students to the German labour market. While before the new 2005 law students had to leave the country upon the completion of their studies, they now may remain in Germany for one year after their graduation in order to find a job. If successful, they are entitled to a settlement permit (Zimmermann 2007: 55). Also, the most recent reform of the immigration law in 2007 introduced a special residence permit for scientists and new rules for the mobility of students. Finally, in August 2007 the government decided to ease the immigration of engineers from the twelve new EU member states (including both the 2004 and 2007 “waves” of enlargement), starting on 01 November 2007. The new regulation enables employers to hire foreign nationals without having to prove that no national candidates are available for the post. In the context of the reforms regarding immigration channels for Eastern European engineers, the Federal government appointed a working group which until autumn 2008 should present a new proposition for managing labour migration to Germany.

3. MANAGING MIGRATION: CURRENT APPROACHES AND OPEN QUESTIONS

Although the passing of the new immigration law in 2005 was the product of long-lasting political negotiations and discussions, its main aim being to provide a solid framework for a new management of labour migration, after its introduction debates about the future management of labour migration have rather intensified. They generally oscillate between the acknowledgement that a more pro-active management of labour market immigration is needed, and the strong will to protect the national labour market.

3.1. Government and political parties' positions on labour immigration

In its coalition agreement the Christian-Democratic/Social-Democratic government led by chancellor Angela Merkel has formulated several positions regarding labour migration, however mainly reflecting the aim of protecting the national labour market from foreign labour. The most important decision by the coalition government has thus been to extend the transition periods regarding the freedom of movement of citizens of the new EU member states (the EU8 which accessed in 2004) until the year 2011. Pro-active measures are limited to the science and technology sector, namely “to encourage the mobility in the higher education sector in Europe” and to “encourage the in-migration of foreign scientists to Germany”, however without specifying how this kind of highly-skilled migration should actually be encouraged (Bundesregierung 2005).

With the exception of the Liberal Party (*Freiheitlich-Demokratische Partei; FDP*), the positions of the political parties on labour migration (as formulated in official party programmes) remain rather

vague. The Green party argues for a faster opening of the labour market for nationals of the new EU-member states; regarding other forms of labour migration it aims at “avoiding the mistakes of the labour recruitment of the 1960s and 1970s and to create the possibility of permanent residence forms”, however without stating for which type of migrants these residence status should be created. The Social-Democratic Party (*Sozialdemokratische Partei Deutschlands; SPD*) which originally in the debate about the new immigration law had favoured a points-system according to the Canadian model, in its recent party programme of the year 2005 only makes general statements on labour migration. While acknowledging a general need for labour migration it emphasises that “immigration should not lead to social or wage dumping”. However, single members of the Social-Democratic Party still favour the implementation of a points-system. The Liberal Party is the only political party that unambiguously wants to further liberalise the legal provisions for labour migration to Germany. It aims at introducing a points-system for highly- and medium-skilled workers (based on age, educational background, professional experience, current salary, German language skills and country of origin), it argues for an earlier opening of the labour market for nationals of the new Eastern European member states, and it wants to establish a permanent immigration channel for highly-skilled migrants (defined by the aforementioned point system) without binding their admission to a concrete job offer.

3.2. Current debates on labour migration: need (and fear) to change

Generally current political debates on how to manage labour migration to Germany focus on (and are limited to) the access possibilities for highly-skilled migrants. However, these debates are at present at the top of the public and political agenda. When taking office the CDU-SPD coalition government charged the Federal Ministry of Interior to carry out an evaluation of the immigration law, focusing on the provisions regarding recruitment channels for highly-skilled migrants. In its resulting report the Ministry of Interior recommended to lower the minimum income for younger highly-skilled migrants and to make conditions for self-employed migrants to start a business in Germany more flexible. A governmental working group in 2006 was charged to evaluate the need for improvements. In the media, the president of the working group repeatedly criticised the regulations for the recruitment of highly-skilled migrants as too “bureaucratic, fearful and defensive” (Steinhardt 2007: 18). However in October 2006 the government stated that changes in the immigration law were not considered necessary. According to officials of the Social-Democratic party, this was due to the opposition of the Social-Democratic minister of Labour Franz Müntefering.

Since the end of 2007, public debates stressing a general lack of qualified workers have increased and claims for an easier access for highly-skilled migrants to Germany have intensified. Several studies commissioned by Federal ministries or published by business associations have become the subject of intense debates. The publication of the “International Migration Outlook” by the OECD in June 2007 triggered a new debate about the need for further channels for labour migration. The figures put forward by OECD showed that until 2020, the labour force will decrease by 6%, and that in order to compensate for this decrease, Germany would until 2010 need a labour immigration of 150,000 persons per year (OECD 2007). Against this background, the federal Minister of science Annette Schavan (CDU) made a proposal to soften the criteria for the entry of highly-skilled migrants, i.e. to lower the required minimum salary for migrants from 85,000 to 40,000-60,000 Euro. However the government did not reach a consensus on this question; the Social-Democratic party opposed the proposition, arguing that rather unemployed German nationals should be enabled to take up these jobs.

In February 2008 a study commissioned by the Federal Ministry of Economics refuelled the public debate on labour migration. It stated that the lack of qualified workers would cost the German national economy 2 million Euro every year. Economic actors reacted by claiming a substantial

liberalisation of labour immigration regulations. Since the passing of the immigration law in 2005, they have generally taken a strong stance for a pro-active management of immigration and especially for easier access ways for highly-skilled migrants. Since 2006, representatives of business associations have unanimously called for a lowering of the income limits for highly-skilled migrants and have claimed a points system according to the Canadian model (Steinhardt 2007: 19). Most recently the president of the German Institute for Economic Research (*Deutsches Institut für Wirtschaftsforschung (DIW)*), Klaus F. Zimmermann, criticised the government for “its failure in the field of immigration” (*Süddeutsche Zeitung* 25.02.2008): “The government has done everything it could to maintain the image of a closed country” (ibid). Also, several politicians both of the Social-Democratic and the Christian-Democratic party reacted to the publication of the February 2008 study of the Ministry of Economics claiming a more pro-active recruitment policy. However governmental representatives maintained the position that a further opening of borders for labour migration could not be undertaken given the high rates of unemployment (which, in June 2008, was at 7.5% (in fact one of the lowest rates since reunification)).

All in all, the current government’s position towards labour immigration has remained rather defensive and is oriented towards a protection of the national labour market and national work force. Especially the positions of Social-Democratic government representatives reflect the fear that a more liberal approach to labour migration would have negative electoral consequences and that it would further weaken the party which already suffers from high electoral losses and a decline in membership. Those changes further encouraging labour immigration channels for medium or highly-skilled workers (e.g. the facilitated access to the German labour market for Eastern European engineers and other foreign graduates) have generally been accompanied by a political rhetoric stressing the need for the protection of the national labour market, arguing that, in view of the high unemployment rate, priority must be given to German nationals (Migration und Bevölkerung 2007).

3.3. Status adjustments for migrants

In 2007 regulations were introduced that give migrants with a “tolerated status” (*Duldung*) (usually rejected asylum-seekers) an easier access to the labour market. Also, specific groups of tolerated migrants may obtain a temporary residence right. Tolerated migrants have only restricted access to the labour market; they must pass a “labour market test”, i.e. they can only take up jobs for which no German worker or migrant with a residence title is available. As a consequence, only few tolerated migrants have formal employment. Currently approx. 230,000 migrants live in Germany as tolerated foreigners. “Tolerated immigrants are subject to several specific measures that aim to prevent the integration of these persons into German society” (Cyrus/Vogel 2005: 17). As part of the reform of the immigration law in August 2007, a new regulation on a conditional residence right for tolerated migrants was passed. It targets migrants who on 1 July 2007 have lived in Germany for eight years. Married migrants or migrants with children are eligible for the programme after a shorter period of six years in Germany. They may obtain a temporary residence right if they can prove until the 31 December 2009 that they have taken up a formal employment (while not being subject anymore to the labour market test), that they have sufficient German language skills and that they have sufficient living space. Furthermore, tolerated migrants who cannot benefit from the new regulation after a four year stay in Germany obtain access to the labour market without being subjected to the labour market test.

3.4. Rights of irregular migrants

Germany’s handling of irregular migration is among the most restrictive in Europe. The lack of a required visa or a residence title is considered a criminal offence. External and internal controls

have been intensified during the last years and irregular migrants are facing a sophisticated control system (Finotelli/Glorius 2006). All public institutions, including schools and hospitals, are obliged to inform the Aliens' Office about the presence of an irregular migrant (*Übermittlungsparagraph*) § 87 Residence Act). Consequently, in health matters irregular migrants mainly rely on private assistance or on the support of humanitarian NGOs, and, although no valid data on this matter exists, it may be assumed that they are reluctant to send their children to school. Also, irregular migrants generally have precarious jobs and face a high risk of exploitation (Alt/Fodor 2001: 22). Generally, individual or collective ways of transforming an irregular into a legal status do not exist.

In its coalition agreement, the current CDU-SPD government had entrusted the Ministry of Interior with the task to evaluate the situation of irregular migrants in Germany. The Ministry's report was published in February 2007, basically stating that there was no need for changes in the regulations on irregular migration. The report discusses the functionality of the above mentioned *Übermittlungsparagraph*, however coming to the conclusion that its "abolition would not be a serious option". The fact that the report was scarcely discussed in the public and the media reflects the general absence of debates on the situation of irregular migrants in Germany. Consequently, it cannot be expected that policy initiatives regarding an improvement of the social situation of irregular migrants or status adjustment programmes will take place.

4. NATIONAL AND EU LEVEL: WHICH RESPECTIVE ROLES?

On 27 October 2007, the *Süddeutsche Zeitung* diagnosed an "almost hysterical reaction" of former Social-Democratic Minister of Labour Franz Müntefering to the European Commission's proposal (COM(2007) 637 final of 23 October 2007) of introducing a so-called EU-Blue Card (*Süddeutsche Zeitung* 27.10.2007). As a matter of fact, political reactions to the proposal have been very negative. While important economic actors such as the president of the employers' association Dieter Hundt, the president of the association of telecommunication companies (*Bitkom*), the Federation of the German Chambers of Industry and Commerce (*Deutscher Industrie- und Handelskammertag; DIHK*) are in favour of the introduction of a common European framework for the recruitment of highly-skilled migrants, the current minister of Labour Olaf Scholz (SPD) said that in view of the high unemployment rates in Germany there was no need for further channels for labour migration (*Frankfurter Allgemeine Zeitung*, 22.12.2007). The statement of the Christian-Democratic labour market expert Reinhard Grindel is paradigmatic for the position of the German government on a European harmonisation of legal migration channels: "The access to the labour market must remain a matter of the national governments" (*Focus online*, 13.09.2007).

The German reactions to the Blue Card proposal are consistent with general German attitudes towards EU migration policy. In the fields of asylum, unwanted migration and border controls, Germany has been very active on the European level. Especially regarding readmission agreements and border control, "Germany took a leading role within Europe" (Borkert/Bosswick 2007: 18), supporting tightened border controls of Central European countries and taking a leading role in the Budapest process aiming at preventing unwanted immigration from South East Europe. Other examples are the (aborted) proposal of former Minister of the Interior Otto Schily to establish centers for irregular migrants in North Africa, and Germany's support of Frontex. However, regarding the objective of attracting high-skilled labour to Germany, "(...) the German position is to maintain migration as a field of exclusively national competence." (Prümm/Alscher 2005: 74). The common position paper by Minister of the Interior Wolfgang Schäuble and Nicolas Sarkozy published in October 2006 points into the same direction: Apart from claiming the establishment of

a common EU institution for asylum matters and stronger border controls, it claims the introduction of circular migration options and quotas for legal immigration. However in the national public discussion, Schäuble repeatedly stressed that Germany might not need the influx of legal labour migrants (*Welt Online*, 27.10.2006). Thus, also in the European context, the will to protect the German national labour market from foreign labour still plays an important role both on the discursive and on the policy level.

REFERENCES

- Alscher, Stefan/Prümm, Kathrin (2007): "From Model to Average Student: the Europeanization of Migration Policy and Politics in Germany", in: Ette, Andreas/Faist, Thomas (eds.): *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*. New York.
- Alt, Jörg/Fodor, Ralf (2001): *Rechtlos? Menschen ohne Papiere - Anregungen für eine Positionsbestimmung*. Karlsruhe.
- Angenendt, Steffen (2007): *Perspectives of German Immigration Policy*. Friedrich-Ebert-Stiftung May 2007.
- Bade, Klaus J. (ed.) (2007): *Enzyklopädie Migration in Europa*. Vom 17. Jahrhundert bis zur Gegenwart. Paderborn.
- Bommes, Michael (2006): "Einleitung: Migrations- und Integrationspolitik in Deutschland zwischen institutioneller Anpassung und Abwehr", in: Bommes, Michael/Schiffauer, Werner (eds.): *Migrationsreport 2006*. Fakten – Analysen – Perspektiven. Frankfurt/Main, 9-30.
- Borkert, Maren/Bosswick, Wolfgang (2007): *Migration Policy-Making in Germany – Between National Reluctance and Local Pragmatism*. IMISCOE Working Paper No. 20, Bamberg.
- Bosswick, Wolfgang (2001): "Development of Asylum Policy in Germany", in: *Journal of Refugee Studies* (13) 1: 43-60.
- Bundesregierung (2005): "Gemeinsam für Deutschland. Mit Mut und Menschlichkeit. Koalitionsvertrag von CDU, CSU und SPD", 11. November 2005.: http://koalitionsvertrag.spd.de/servlet/PB/show/1645854/111105_Koalitionsvertrag.pdf.
- Bundesamt für Statistik 2007:
- Cyrus, Norbert/Vogel, Dita (2005): "Germany", in: Niessen, Jan/Schibel, Yongmi/Thompson, Cressida (eds.): *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue*. Brussels/Düsseldorf.
- Dangelmaier, Daniela (2007): *Die Einwanderungspolitik in der BRD und der Schweiz. Vergleich und Analyse*. Saarbrücken.
- Finotelli, Claudia/Glorius, Birgit (2006): "Country report Germany", in: Doomernik, Jereoen/Jandl, Michael (eds.): *Modes of Migration Regulation and Control in Europe*. Report of IMISCOE cluster A, task group 2 – work package Modes of Migration Control (June 2005-June 2006).
- Bundesministerium der Justiz (2004): *Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet*, in: http://bundesrecht.juris.de/aufenthg_2004/index.html.
- Leise, Eric (2007): *Germany Strives to Integrate Immigrants with New policies*, in: *Migration Information Source*, <http://www.migrationinformation.org/Feature/display.cfm?id=610>.
- Laubenthal, Barbara/Nieland, Jörg-Uwe (2007): "Migration policy in Germany: Do the media matter?". Paper presented to the 'Public Policy and the Mass Media' workshop of the ECPR conference, Helsinki, 11. May 2007.
- Netzwerk Migration in Europa (ed.) (2007a): *Newsletter Migration und Bevölkerung*, 7.
- Netzwerk Migration in Europa (ed.) (2007b). *Country profile Germany*, 1, May 2007.

- OECD (2007): *International Migration Outlook*. Annual Report 2007 Edition.
- Statistisches Bundesamt (2007): *Bevölkerung und Erwerbstätigkeit. Bevölkerung mit Migrationshintergrund. Ergebnisse des Mikrozensus 2006*. Wiesbaden: Statistisches Bundesamt.
- Steinhardt, M. (2007): *Die Steuerung der Arbeitsmigration im Zuwanderungsgesetz – eine kritische Bestandsaufnahme aus ökonomischer Sicht*. HWWI Policy Paper 3-2 des HWWI-Kompetenzbereiches Migration – Migration Research Group. Hamburg.
- Unabhängige Kommission Zuwanderung (2001): *Zuwanderung gestalten – Integration fördern. Bericht der Unabhängigen Kommission Zuwanderung*. Berlin: Bundesministerium des Inneren.
- Zimmermann, Klaus F./ Bonin, Holger/ Fahr, René/ Hinte, Holger (2007): *Immigration Policy and the Labor Market. The German Experience and Lessons for Europe*. Berlin/Heidelberg, Springer.