

The role of economic non-state actors in shaping labour migration policies: the German case in the European context

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1. INTRODUCTION

The issue of labour migration is at the top of the political agenda in Western Europe. All the European immigration countries are currently negotiating ways to address demographic change, labour shortages in specific sectors and needs for highly-qualified labour; “managed migration” has become a catch word in current political and public discourse in Europe. In the formation of new labour migration policies, employer associations and trade unions play a central role: “Labour migration policy is in large part driven by social partner preferences, in particular those of business. (...) the key factor in analyzing policy development is the involvement of social partners” (Caviedes 2008: 3). Menz (2007), too, states that “(...) the formation of labour migration policy is shaped by the actions and positions of non-state actors, principally (...) trade unions and employer associations” (Menz 2007: 2) Despite this importance of economic non-state actors in labour migration policies, their involvement in current European policies is still an under-researched issue. In the German case, in particular, the ongoing changes in labour migration policies and the role of economic actors in this process have up until now, albeit for a few exceptions (Caviedes 2008; Menz 2007), largely been neglected by research. However, Germany represents an interesting case for several reasons. Current German labour migration policies are characterised by ambivalent and conflicting tendencies. While since the year 2000 a need for a pro-active management of labour migration is generally acknowledged, policy initiatives remain cautious and are still very much informed by the long prevailing *leitmotiv* of German migration policy that Germany is not an immigration country. Since the 1970s until the turn of the century, German migration policy was dominated by the paradigm of preventing any legal labour migration to Germany. Foreign labour could only to a very limited extent and as part of exception rules to the general recruitment ban temporarily access specific sectors of the national labour market. Against this background, the passing of a new law in 2005, officially acknowledging for the first time a need for labour migration and setting up channels for the permanent recruitment of highly-qualified workers, represented an important change in German migration policies. However, the general handling of labour migration remained rather restrictive, reflecting both on a rhetorical and on a material level the long prevailing philosophy of protecting the domestic labour market from foreign labour. Thus “(...) restrictionist rhetorics are being accompanied by slightly more permissive practices” (Menz 2007: 17).

At the same time, already shortly after the introduction of the new immigration law in 2005 that was supposed to provide a comprehensive framework for managing the current needs of labour immigration, policy-makers and non-state actors acknowledged a need for further reforms in this field. Between 2005 and 2009, in quick succession several further legislative changes took place. In 2007, the federal government, despite the general restrictions on the free movement of nationals from the ten new Eastern and Central European Member States, decided to soften the conditions for the recruitment of engineers from Eastern and Central Europe. Also, in 2007 the preconditions for self-employment of foreign nationals were lowered to an investment of 500,000 Euro and to the creation of five new jobs. Furthermore, in 2007 the federal government in its *Meseberg* cabinet decision appointed a ministerial working group to elaborate a new legal framework for the recruitment of foreign workers. Based on the report of this working group, the federal government elaborated the “Action programme of the Federal Government – The contribution of labour migration to securing the necessary pool of qualified workers in Germany” (*Aktionsprogramm der Bundesregierung – Beitrag der Arbeitsmigration zur Sicherung der Fachkräftebasis in Deutschland*) that was subsequently transposed into the new “Law for the management of labour migration” (*Arbeitsmigrationssteuerungsgesetz*). The law came into force on 1st January 2009. It lowers the required minimum income for highly-qualified workers from 86,400 Euro to 63,600

Euro.¹ Also, the preconditions for the self-employment of foreign nationals were further lowered to an investment of 250,000 Euro. Furthermore, the law foresees a permanent residence status for young “tolerated” migrants (those with a so-called *Duldung* status, most of them non-deportable rejected asylum-seekers), aiming at giving them access to the German labour market.

Also, as an accompanying measure to the new law, the “Ordinance on Employment” (*Beschäftigungsverordnung*) was reformed. In its paragraph 27, a passage requiring the existence of a “public interest” for the employment of qualified foreign workers was abolished, thus easing the employment of foreign university graduates, also of those who do not fulfil the minimum income requirements of the “Law for the Management of Labour Migration”. University graduates from the ten new EU member states can now be recruited without the employer having to prove that no German nationals are available for the post.

Those recent legal developments in the field of labour migration show that German labour migration policies are currently a dynamic field, and that since the year 2005 a certain liberalisation of German labour migration policies has taken place. Against the background of the German corporatist political system that privileges the involvement of civil society actors in general and of the social partners in particular both in policy formulation and in the political decision-making process, the question of the role of business and labour interests in shaping these changes in labour migration policies is of particular interest. While an extensive body of literature on the involvement of these actors in policy fields such as labour market or health care policies exists (see for example Goll 1991; Bandelow 1998), there is a significant research gap on their role in migration policies and more specifically in recent labour migration policy reforms. Against this background, this paper sets out to analyze the attitudes that German economic actors are displaying towards labour migration policies. To what extent do corporatist arrangements shape and inform current German labour migration policies? How are economic interest groups incorporated into the political decision-making process in this field? What are their positions on labour migration, and how and to what extent are their positions reflected in the recent policy initiatives? Are they (and how successfully?) advocating reforms that encourage changes in Germany’s labour migration policy towards a more pro-active and liberal management of labour migration? How is the role of the German social partners to be viewed in the European context?

In order to address these questions, the paper starts by presenting central findings from selected European countries, thus establishing a comparative perspective for analysing the German case. Secondly, it outlines the position and forms of influence of non-state actors in the German political system. In its empirical part, the positions of trade unions and employer associations on current labour migration policies and the forms of their involvement in the political decision-making process in this field are analysed. The study is based on the following sources: a) a document analysis of press statements and position papers of the Confederation of German Industries (*Bundesverband der deutschen Industrie*, BDI), the Confederation of German Employer Associations (*Bundesvereinigung der deutschen Arbeitgeberverbände*, BDA) and the Confederation of German Trade Unions (*Deutscher Gewerkschaftsbund*, DGB) from 2001 to 2009; b) on expert interviews that were conducted with the BDA and the Federal Ministry of Labour and Social Affairs; c) on a background discussion with the Federal Ministry of Interior. In its Conclusions, the paper critically assesses the role and influence of trade unions and employer associations in German labour migration policies and in the European context, and it discusses whether a further liberalisation in this policy field can be expected.

¹ In the legislative process, the Federal Council (*Bundesrat*) wanted to lower the required minimum salary for foreign workers even further than the working group had proposed (from 63,300 to 53,400 Euro). However, the proposal was not successful.

2. THE ROLE OF ECONOMIC ACTORS IN EUROPEAN LABOUR MIGRATION POLICIES: FINDINGS FROM FRANCE, SPAIN AND THE UK

One of the most important topics regarding the role of economic actors in migration policies is the (changing) position of European trade unions in labour migration policies. A growing body of studies, focusing on the Mediterranean countries and on France, has identified a significant change in the role and positions of trade unions in labour migration policies, who have since the turn of the century shifted from largely protectionist positions to a more liberal stance: “The social coalitions and cleavages that form in immigration policy debates are not the same (...). Labor unions have changed coalitions. In the past it was often thought that unions would pressure for restrictionist immigration policy measures so as to reduce the flow of labour into countries and to thereby improve wages and work conditions” (Haus 2002: 1). As opposed to this view, the empirical analysis of trade unions’ current policy preferences in Spain and France, but also in the United Kingdom shows that trade unions, albeit with variations according to nationally specific characteristics of labour markets and migration policies, have taken up pro-immigration positions, supporting the establishment of legal immigration channels for foreign workers. In Spain, unions have mobilized for granting residence rights to irregular workers and have put forward demands for family reunion rights (Haus 2002, Watts 2002): “The reputed logic is that the failure of these countries to control illegal migration has led unions to accept such workers as inevitable and in need of more complete integration and support” (Caviedes 2005). Also, trade unions in the United Kingdom have “discovered” migration as a policy field: “In recent years there has been a marked change in the trade union movement in Britain with the TUC visible at the forefront of activities to combat discriminations” (Avci/McDonald 2000: 199-200). Also, the TUC has opposed national attempts to further restrict immigration (ibid.: 200). TUC supports a proactive labour recruitment strategy, advocating for standard working conditions and wages for foreign workers. As in the case of the Mediterranean countries, managed migration is seen as a means to combat irregular migration (Menz 2007: 25). Based on a comparative study on France, the United Kingdom and Germany, Menz (2007) comes to the conclusion that European trade unions have in general departed from a reserved stance towards labour migration, “being broadly supportive of carefully managed labour migration” (ibid.: 29). Furthermore, they have become important actors in integration and anti-discrimination policies.

As one root for the changing positions of trade unions, the existing research identifies economic processes of internationalization (Avzi/Mc Donald 2000): “Today, many labor leaders see immigration as an inevitable consequence of globalization and believe restrictive immigration policies cannot stop the flow of immigrant workers” (Watts 2002: 2). Also, the internationalization of human rights concerns has led to unions’ advocating for the rights of migrants (ibid.). Furthermore, decreases in union membership have led to an increased interest in migrant workers as potential members.

The role of employer organizations in shaping current European labour migration policies has less come into the focus of research, although they are considered to be the structurally most important non-state actors in labour migration policy (Caviedes 2008; Menz 2007). Lobbying by employers is seen as a crucial driving force of policy change, both on the national and the European level where a lack of substantial support by business interests is largely held responsible for the failure of creating a common European immigration law (Caviedes 2008: 2). For explaining European employers’ varying demands and policy preferences, research has pointed out that employers’ specific demands are contingent on the production system they are embedded in (Menz 2007) Thus in a liberal market economy such as Britain, employers would be expected to advocate for both highly skilled labour and for labour immigration into lower segments of the labour market. In coordinated market economies such as Germany, employers would concentrate in their demands

mainly on highly-skilled tiers of the labour market (Menz 2007). In the UK, in recent years, employer federations have generally been very active in putting forward demands for managed migration, and while they do not enjoy formal institutional access to the field of labour migration policies, policy output to a significant extent reflects employers' demands and preferences (ibid.: 25).

3. THE PARTICIPATION OF NON-STATE ACTORS IN THE GERMAN POLITICAL SYSTEM

A characteristic feature of the German political system is that interest groups are to a significant extent included in the formulation and implementation of public policies (Voelzkow 2007: 152). Neo-corporatist arrangements, understood as “the concerted action of state actors, especially the government and the large interest organizations of capital and labour” (Sebald/Strassner 2004: 41), characterize many (albeit not all) policy fields. While also pluralistically structured policy fields exist, corporatist arrangements prevail in central policy fields such as social policy, health policy and labour market policy. Interest groups are represented in consultative and public oversight bodies, in governmental commissions and in ministerial advisory boards, the latter being “the most developed form of institutionalized influence on ministerial administrations” (Reutter 2001: 93). In the field of social policy, welfare organizations act as institutionalized partners in the formulation and implementation of new policies. In health and in labour market policies alliances such as the “Concerted action in health care” (*Konzertierte Aktion im Gesundheitswesen*) and the “Alliance for Labour” (*Bündnis für Arbeit*) were established in order to include non-state actors into the policy formulation and decision-making process in these fields (Sebald/Strassner 2004: 222-224).

Of all non-state actors, business and labour organizations play by far the most important role in the German political system (Ismayr 2003: 469). Apart from being included in corporatist arrangements in the field of labour policies, representatives of business and trade unions are also invited into consultative and advisory bodies in other policy fields (Reutter 2001: 94). Especially trade unions are considered to assume the position of a “quasi-public actor” (Kühne 2000: 40) in the political decision-making process: “They have a place in all public and political institutions (...). They are represented in (...) industrial jurisdiction, in social security institutions, in political advisory bodies, in bodies that assist the ministries (...)” (ibid). During the 1980s, trade unions were represented in 285 corporatist bodies (Reutter 2001: 93). Also, European comparative studies on the access of interest groups to members of the national parliaments show that in Germany of all interest groups trade unions enjoy the best access, followed by professional and business associations (Wessels 2007: 110-111).

Regarding the participation of the social partners in the political-decision making process in the field of labour migration policies, the few existing research states that trade unions and employers are routinely invited by the Ministry of Labour for informal consultations in the drafting of legislation (Menz 2007: 19). At the same time, it is assumed that a shift of competency in migration policies in the 1980s from the Ministry of Labour to the Ministry of Interior has somehow limited the channels of influence for non-state economic actors, thus cutting off the existing cooperation structures between the Ministry of Labour, employers and trade unions (Green 2004).

4. GERMAN TRADE UNIONS AND LABOUR MIGRATION POLICIES: POSITIONS AND RECENT DEVELOPMENTS

In the 1950s, in view of the ongoing immigration of Germans from Eastern European countries and the German Democratic Republic (GDR) and the fact that one million Germans were unemployed, German trade unions were opposed to the recruitment of foreign labour. Especially in the mining sector, trade unions opposed the employment of foreign workers for fear of wage-dumping effects. However, after becoming part of a tripartite body that negotiated the conditions for the establishment of labour recruitment schemes, trade unions agreed on the establishment of recruitment treaties with Southern European countries and gradually became concerned with the interests of foreign workers (Kühne 2000). The unions were able to win recognition for their demand for equality for immigrant workers in pay and in social policy provisions for workers (ibid.: 40). However, in accordance with the government's position, the unions considered labour immigration to be a temporary phenomenon and, in 1972, they co-initiated with the government the official recruitment stop for foreign workers (Treichler 1998: 172). In the following years, the unions agreed on the governments' official policy to 'consolidate' the presence of migrant workers by preventing any new labour immigration. The DGB was also reluctant to support the establishment of channels for family reunification. Furthermore, trade unions' labour migration policy encompassed several restrictive positions: Germans should have priority in job vacancies, migrants who had come to Germany in the framework of family reunification should have to wait for a certain period of time before taking up a job, and the maximum age of children who came to Germany as part of family reunification measures should be lowered from 18 to 16 (Kühne 2000: 46).

However, during the 1980s, the position of trade unions gradually became more progressive, and anti-discrimination and integration policies became central concerns of the German trade unions. In 1983, the DGB strongly opposed policy proposals by the Conservative-Liberal government to encourage the return of migrants (Kühne 2001, Treichler 1998). Since the 1990s, a major shift of trade unions' positions with a much higher relevance granted to human rights concerns (as opposed to economic concerns) has taken place. This has led to a growing emphasis on asylum, refugee rights, anti-discrimination and integration in official positions and policies: "The DGB's main concern over the years has been the integration of immigrants into the main labour market and the avoidance of any bifurcation. It has traditionally utilized its contacts to Social Democrats to lobby in favour of respect for the rights of resident migrant populations. At all levels of the organization, the official stance has been one of favoring non-discrimination and anti-racism." (Menz 2007: 20).

Since the middle of the 1990s, trade unions have developed positions in favour of labour migration. However, these positions are always accompanied by demands for the protection of workers on the national labour market. In 2000, the DGB only reluctantly supported the introduction of the so called Green Card, a five year work-permit scheme for IT specialists, and it opposed the extension of the Green Card initiative to other groups and sectors of the labour market, arguing that a temporary opening of specific sectors would prevent the integration of unemployed national workers into the labour market. The agreement of the trade unions on the Green Card was made conditional on the commitment of employers to recruit more trainees and to invest in the qualification of young and senior workers.

However, in the debate on the introduction of a new immigration law in 2001, the DGB put forward a demand for an active management of labour migration. This demand was embedded in a comprehensive migration policy approach, aiming at a better protection of asylum-seekers and refugees, the granting of permanent residence rights for "tolerated" migrants and the introduction of an active integration policy. The DGB claimed a "comprehensive law for the management of immigration because of economic reasons, also aiming at the integration of foreigners. (...) At the

same time, national and international regulations regarding the admission of asylum-seekers and refugees, and family reunification regulations must not be restricted (*Grundsätze des Deutschen Gewerkschaftsbundes für die Regelung der Einwanderung*, 13.03.2001). The DGB defined its role in the management of labour migration as one of “(...) social protection both towards national (German and foreign) workers and towards new immigrants; unequal treatment and exploitation must be prevented” (ibid.). Arguing that a general decrease in active population, combined with an increase in labour demand (especially in the service sector) made labour immigration necessary, the DGB claimed the introduction of a comprehensive legal framework for regulating regular and permanent immigration, as opposed to instruments for a temporary recruitment of foreigners: “The DGB’s view is that a short-term employment of workers from third countries can only be justified exceptionally, since firstly workers from the EU member states enjoy free access to the labour market and secondly a qualified national pool of workers exists” (ibid.). Thus “(...) immigration must be managed in order not to put a burden on the national labour market” (DGB in *Der Spiegel* 24.04.2001). While claiming the abolishment of the general recruitment ban, the DGB however wanted to maintain the so-called *Inländerprimat*, the principle of a priority of German workers in recruitment (*Kernforderungen des Deutschen Gewerkschaftsbundes für einen Perspektivenwechsel in der Einwanderungs- und Integrationspolitik*, 19.03.2003). Also, the DGB stressed that the reduction of unemployment and the qualification of German nationals must have priority over labour immigration (*Thesen des Deutschen Gewerkschaftsbundes für die Regelung der Einwanderung*, 03.04.2001).

As a legal framework for managing and regulating labour migration, the DGB has since 2001 claimed a points-based system inspired to the Canadian model. Also, since 2005 it shares with employers the demand for a lowering of the minimum income requirements for highly-qualified workers for obtaining a permanent settlement permit. In the 2008 debate on the introduction of the new “Law for the management of labour migration”, the DGB assumed a critical position, arguing that the reforms were still too limited: “The new law does not represent a comprehensive framework for managing migration, such as the one DGB proposes with the points-based system” (Press statement, 16.07.2008). Regarding the granting of free movement for nationals of the 2004 EU accession countries, however, the DGB’s position is more restrictive. It claims flexible transition periods for different sectors: sectors with high unemployment should remain closed while sectors with a high need for labour should be opened earlier. Also, the DGB demands the introduction of legal protection measures against wage dumping before the full opening of the German labour market in 2011 (DGB Press statement: *Zuwanderungsbeschluss mit Licht und Schatten*, 16.07.2008).

5. EMPLOYER ASSOCIATIONS’ POSITIONS ON LABOUR MIGRATION POLICY

Active labour recruitment policies in the 1950s and 1960s were governed by the principle of a rotation system based on temporary stays. The federal government viewed the employment of foreigners solely under the aspect of labour market considerations, and labour recruitment was considered to be a transitional phase of German labour policy. However, this official policy was conflicting with the interests of employers who wanted to employ foreign labour on a permanent basis (Bade 1993). Also, as opposed to the position of the federal government and trade unions, employers were opposed to the recruitment stop in 1973 and remained in favour of maintaining the

“guestworker system”. Already shortly after the introduction of the recruitment stop, confronted with labour shortages in certain sectors, employers demanded the establishment of immigration channels for seasonal workers. During the 1980s, the introduction of bilateral labour treaties with Eastern and South Eastern European countries, in form of exceptional derogations to the general recruitment ban, was the result of employers’ lobbying for a temporary flexible labour force (Menz 2007: 21). However, during the 1980s employers’ lobbying in the field of labour migration policy became less intense; such development may have been supported by the shift of competency in migration policies from the Ministry of Labour to the Ministry of Interior (Green 2004, Menz 2007). Since the mid-1990s, employers’ lobbying on migration issues has re-intensified again; employer associations have once more adopted a strong position in favour of labour migration to Germany and have since the turn of the century constantly put forward the demand for labour migration quotas and for a points-based system for admission based on the Canadian model. In 2001, when the negotiations for a new immigration law started, the BDI claimed a yearly quota of 300,000 work places for foreign workers, ten times more than the quota proposed by the Independent Commission on Immigration set up by the government in order to elaborate the new law (Menz 2007: 19). The demand for a points system has also continuously been put forward by BDA, most recently together with the DGB in common position papers and in a common statement to the Interior Committee of the German Parliament (*Stellungnahme zum Entwurf eines Gesetzes zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union – Erwerbstätigenzuwanderung vom 25.05.07*; Interview BDA 02.02.2009).

From 2001 onwards, the demands for a liberalisation of labour migration policies that were put forward by business and employer associations contained as a *leitmotiv* a need for the immigration of the “brightest minds” in order to keep the German economy competitive: “A red carpet should be rolled out for highly-qualified workers, the self-employed and university graduates, because they are creating new jobs” (Der Spiegel 06.09.2001). “We must quickly encourage the immigration of highly-qualified workers (...). The German economy must have a good starting position in the competition for the brightest minds. Today, Germany is not attractive at all for highly-qualified workers (...)” (BDI, press statement 11.03.2004). Employers argue that the lack of qualified labour is one of the main obstacles for the development of the German economy: “In spite of four million unemployed, one million jobs remain vacant, several hundred thousands of them in the IT, telecommunication and e-business sector, in catering, health care and the electronic industry (...)” (press statement BDI 27.11.2001). Within this context, another central demand of business interests is the establishment of channels for the short-term temporary recruitment of foreign workers for specific sectors. Here, the BDI claims a softening of the current provisions imposing on the employers the onus to demonstrate that national workers are not available for a position: “Basically employers should only have to demonstrate that they have been searching for an employee on the national labour market for three months. After demonstrating this, companies should be free to manage temporary migration (...) as they see fit, without being impeded by an inappropriate bureaucracy” (Statement by Robert Henkel, BDI, in Der Tagesspiegel 04.02.2002).

Since the introduction of the immigration law in 2005, one of the central demands of BDI and BDA has been the lowering of the minimum income for highly qualified workers that is required to obtain a permanent settlement (Interview BDA, 02.02.2009). These demands have repeatedly been put forward in all the debates on the ongoing reforms in labour migration policies. In the debate on the introduction of the latest “Law for the management of labour migration”, the BDA has stated that “(...) the regulations of the immigration law in 2005 were still too restrictive. Although the ‘Action programme of the Federal Government - The contribution of labour migration to securing the pool of qualified workers in Germany’ represents a step into the right direction, the solutions that it proposes remain very limited. The BDA welcomes the lowering of the required minimum income

for highly qualified workers to 63,600 Euro. However, a lowering to 45,000 Euro (as in the Netherlands) would have been the right step”.²

According to the BDA, this lowering is necessary to simplify the access to the German labour market especially for young highly-qualified workers (Interview BDA, 02.02.2009).

Furthermore, the BDA stands against further restriction of the free movement for nationals of the 2004 accession countries: “An important measure for an opening of the German labour market would be not to generally extend the transition regulations regarding the freedom of movement of nationals of the 2004 accession countries after 2009. Especially Denmark’s and the United Kingdom’s positive experiences have shown that the free movement of these nationals has not led to an increase in unemployment rates (...) (*Beschlussvorlage der BDA*, 17.07.2007). At the same time, both BDI and BDA emphasize in their statements and position papers that a liberalisation of labour migration policies must go hand in hand with qualification measures for national workers.

6. TRADE UNIONS AND EMPLOYER ASSOCIATIONS’ INVOLVEMENT IN RECENT CHANGES IN LABOUR MIGRATION POLICIES: INSTITUTIONALIZED AND INFORMAL WAYS OF PARTICIPATION

Corporatist arrangements were a characteristic of German labour migration policies during the recruitment phases in the 1950s and 1960s. Trade unions and employer organizations were institutionally involved in formulating German recruitment policy, being part of a tripartite body of the Ministry of Labour that designed and managed the new recruitment schemes. In recent reforms and policy initiatives on labour migration, however, trade unions and employer associations have not been involved to this extent. Rather, they use the institutional channels that the German political system generally offers to interest groups.

In 2001 trade unions and employers were represented in the Independent Commission on Immigration, a consultative body appointed by the federal government to elaborate a proposal for a new immigration law. As opposed to trade unions’ proposition to set up the Commission as a tripartite body, the Commission also included scientists, politicians and the churches. In the formulation of the most recent political initiatives, the “Action programme” that was the basis for the 2009 law on the management of labour migration, no tripartite or other consultative bodies were created. The working group that elaborated the action programme was an inter-ministerial body of the Ministry of the Interior and the Ministry of Labour. Neither the social partners nor any other civil society organization were invited to the group (Interview Ministry of Labour 01.02.2009). Not even a regular (formal or informal) exchange with the social partners on the new law took place (*ibid.*). For their lobbying on the new law, DGB and BDA mainly used the general ways that the German political system provides for the participation of interest groups in legislative reforms, i.e. the channels that the “Common rules of procedure of the federal ministries” foresee for interest groups’ participation (Interview Ministry of Labour 01.02.2009). The Common rules, in particular, foresee that interest groups are routinely invited to put forward statements on legal projects.

²[http://www.arbeitgeber.de/www/arbeitgeber.nsf/id/DE_Zuwanderung_Integration].

Still, trade unions and employers continuously address the federal Ministries of the Interior and of Labour with proposals and statements regarding labour migration; they are perceived by the ministries as “very busy actors” in this field. In the debates surrounding the 2009 law, the Ministry of Labour perceived the BDA as the most active actor, and its demand to lower the minimum required income for highly-qualified workers was acknowledged by the Ministry (Interview Ministry of Labour and Social Affairs, 02.02.2009).

As an accompanying measure to the introduction of the 2009 law, the federal government plans to create an “alliance” to monitor labour market developments and to identify labour market shortages. Both trade unions and employers will be invited to this body, however also other actors such as scientists, representatives of the federal states and members of the federal government will participate. The DGB has welcomed the project: “It is positive that with its proposed monitoring system, the federal government (...) picks up its earlier dialogues with labour market actors”(DGB press statement 16.07.2008). However, the government has clarified that “the task of the alliance will not be to develop a points-system for the recruitment of foreign workers”. (*Aktionsprogramm der Bundesregierung – Beitrag der Arbeitsmigration zur Sicherung der Fachkräftebasis in Deutschland*, p. 3).

7. CONCLUSION

Since the turn of the century, labour migration has become a central policy field for German employers’ associations and trade unions. While employer organisations have since the post-war period, albeit in varying intensity, continuously put forward claims to liberalize labour migration policies, German trade unions’ position on the need for labour migration has since the post-war period undergone a significant change. From a defensive and protectionist attitude, their position has changed towards a general pro-labour immigration stance. Also, the DGB has become an important actor in the field of migration and integration policies. Its current positions and principles thus conform to the general trends of European trade unions’ in dealing with migration, who have generally extended their positions on migration from purely economic stances to human rights concerns and who, acknowledging immigration as a reality of contemporary societies and labour markets, have largely chosen to become pro-immigration actors. Within this context, the DGB has negotiated the structural dilemma of trade unions in the field of migration - to reconcile human rights concerns with the need to protect the interests of the national workforce – firstly by taking up a progressive stance on integration issues and strongly arguing for the protection and granting of residence rights for migrants with a precarious residence status. Secondly, it has assumed a cautious pro-labour migration position, claiming, with the points-system, the introduction of a framework that would facilitate labour migration in a regulated and controlled manner, and that in the DGB’s view would maintain social and wage standards and would protect the social and economic position of national workers. Also, the DGB has continuously claimed the lowering of the required minimum income of highly-qualified workers to obtain a permanent settlement permit. Still, the DGB’s rhetoric that routinely stresses the priority of the needs and rights of workers on the national labour market, its positions against the free movement of nationals of the new EU member states and its strong opposition to a liberalisation of temporary recruitment channels, all highlight the organisations’ main concern to act as an interest group of the national work force.

In contrast, German employers claim a substantial liberalisation of labour migration policies. In accordance with the few findings available from European comparative literature on the role of European employers in labour migration policies, German employers are very active lobbyists, and they focus in their labour migration demands on recruitment opportunities for qualified and highly-skilled workers. At the same time, it is worth noting that in the German case, employers and trade unions agree on several central labour migration issues, most importantly on the need for the introduction of a points-system and in their demand for a lowering of the required minimum income for highly-skilled workers. On these demands, employers and trade union have even repeatedly co-operated in their lobbying activities.

However, while the demands of BDA and DGB on income requirements have been partly met by the latest legal reform, the introduction of a points system seems not probable at all (Interview Ministry of Labour 02.02.2009). German labour migration is still very much shaped by its historical traditions and driven by the priority of restricting (labour) immigration to Germany. Since political thinking is still very much influenced by the "guest worker system", an innovative approach is unlikely to be implemented. Furthermore, while the question of the inclusion of economic interest groups in the political decision-making process in current labour migration policies still needs to be researched more thoroughly, the findings of this paper do not suggest that in current labour migration policies, social partners benefit from corporatist arrangements or structures that the German political system in principle might provide and that would enable them to increase their influence on political decisions. Still, the political and legal developments that took place between 2005 and 2009 show that German labour migration policies are undergoing a process of liberalization that is not completed yet.

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