

IMISCOE Working Paper

**Migration Policy-Making in Germany – between national reluctance
and local pragmatism?**

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Preface

This Working Paper illustrates 50 years of migration towards Germany, focusing particularly on processes of migration policy-making at different institutional levels of governance: the *Bundesrepublik* (Nation state), the *Laender* (Regions) and the *Gemeinden* (municipalities). Within this approach, the Paper identifies the different actors involved, from governmental and non-governmental backgrounds, and investigates their contribution to policy-making in the field of migration and integration. This particular perspective allows for two key insights into the processes of migration and policy-making in Germany: the historical consistency of in-migration to the country (guest workers, displaced persons, ethnic Germans and family reunion) and Germany's long-lasting view of itself as a non-immigration country, which resulted in the absence of a comprehensive national migration policy up till the new millennium.

In reality, throughout its history Germany has been a typical immigration country, actively recruiting foreign nationals for labour purposes. The focus of foreign labour employment shifted from agriculture in the Prussian era, to the industrial sector in WWII. As a consequence of the world economic crises of the 1970s a halt on recruitment was imposed. But in contrast to the prevailing opinion, there was no enforcement of the rotation scheme. Instead, the halt on recruitment was repeatedly punctuated by exceptions in subsequent years.

This example, i.e. the need for foreign labour, the denial of this on an official level and the obvious bypassing of officialdom, illustrates one structural pattern of migration policy-making in Germany that this Working Paper highlights: the reluctance to formulate policy on a national level, and the developments and needs in local situations which put pressure on local government and associations for innovative concepts and independent strategies able to tackle specific migration-related challenges. From this perspective, the paper contributes to addressing the significant gap between migration policy-making on the one hand, and empirical evidence on the other hand. It reveals the multitude of policy-making arenas that exist at different levels of society and offers new insight into policy-making and outputs.

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1. Introduction

The making of migration policies is a multidimensional and complex process: It involves and affects different spheres of society (local, regional, national, international) as well as it is influenced by the interaction between a multitude of social-political actors. Moreover, policies do have a double nature: intentions and outcomes are not necessarily the same. Besides the process of actively constructing political interventions, even those side effects have to be considered which gain shape by existing 'shadow-decisions' or non-policies and contra-intentional outcomes of policy measures. These aspects of policy formulation and policy outcomes in post-war Germany will be described in the following sections, suggesting possible linkages between them and their reciprocal influence.

In general, German (migration) history is marked by a continuing system of foreign labour employment, which shifted from agriculture in the era of Prussia to the industrial sector in WWII. In several sectors such as agriculture, mining and chemical industry, the share of foreign labourers grew up to 40 per cent in 1944 (Bade 1983: 56). This pattern of foreign labour recruitment was interrupted only during the economic crisis at the end of the 1920s and during the end of WWII when in four years time 13.7 mio. refugees and expelled ethnic Germans from Central Europe immigrated to the three Western Zones of the future Federal Republic of Germany (Bade 1983: 59).¹ Although immigration constitutes an integral part of German history, first substantial migration movements to the country took place as a consequence of WWII which, therefore, marks the starting point of this contribution.

In post-war West Germany, a large share of the labour force demand could be met by returning German prisoners of war (4 mio. until the end of 1950), refugees of German decent from Central Europe (approx. 4.7 mio.) and by persons emigrating from the German Democratic Republic (approx. 1.8 mio. until 1961) (Bade 1987: 60). In 1950, these migrants amounted to 16.7 per cent of the West German population, increasing to 23.9 per cent in 1960 (Herbert 1990: 196). Although these immigrants were treated like Germans by law, and considered themselves as being Germans, their integration took place not without conflicts: the autochthonous population often showed open hostility towards these 'Fluechtlinge' (refugees) and raised concerns about their different culture, prejudices about their unwillingness to work, and their uncleanliness as well as their assumed tendency to criminality (Oberpenning 1999: 302; Schulze 1997: 53-72). Nevertheless, these migrants integrated themselves successfully into German economy and political system due to enjoying full citizenship rights which enabled them to articulate and safeguard their interests in the given economic-political structure of West Germany. This political mobilization led to an assimilation process in which the political structure of the host society had to respond to the migrants' demands, instead of following existing resentments of the autochthonous population.

Even if the labour force demand of the Wirtschaftswunder, the booming German economy of the 1950s, could be met by these migrants of ethnic German

¹ In the aftermath of WWII Germany was divided into three Western and one Eastern zones becoming the Federal Republic of Germany (FRG) and accordingly the German Democratic Republic (GDR) in 1949.

origin, regional labour force demands emerged in specific sectors. These labour shortages led to the employment of first Italian 'guest workers' in 1952 by South West German farmers, in spite of an overall employment rate of 9.5 per cent (Heckmann 1981: 149f).

An increasing demand in the construction sector and the industry - partly due to the rearmament and the formation of the German armed forces in 1956 - led to the extension of active recruitment of foreign workers by agreements with several European countries: Italy (1955) was followed by Spain and Greece in 1960, and Turkey in 1961. These agreements were not unilateral in the German interest; several sending countries intervened for expansion of the migrant numbers or for being also considered by the 'guest worker' programme (Steinert 1995). After the construction of the Berlin Wall and the closure of the German Democratic Republic's border in 1961, further agreements with Morocco, Portugal, Tunisia and Yugoslavia were signed until 1968. One of the most important decisions of Germany's post-war labour recruitment was made in 1955, when the government, the employers' associations and the unions agreed upon full integration of the labour migrants into the social security system (Mehrländer 1980: 77ff). Since then, the German social security system in principle did not differentiate between foreigners and German nationals.

As a consequence of the oil crisis of 1973, a halt on recruitment has been imposed. At that time, 2.6 mio. foreign workers were employed in German economy, among them Turkish nationals (23 per cent), Yugoslavian citizens (18 per cent) and Italians (16 per cent) (Lederer 1997: 52). Although the employment of the 'guest workers' has been intended as being temporary by both the German host society and the migrants, there was no enforcement of the rotation scheme. In contrary, since the migrants were employed in unattractive sectors of the industry (mining, construction, metal and textile industry), German employers were interested in keeping their trained labourers. During the early 1970s it became increasingly obvious that the rotation strategy was not feasible, while at the same time the share of non-European migrants and their visibility in public increased. Parallel to the 1973 halt on recruitment for non-EEC nationals in the context of the oil shock, the official rotation policy became replaced by a policy promoting voluntary repatriation. Family reunion (spouses and children below the age of sixteen) has been the only possibility for regular immigration into Germany from 1973 onwards. Thus the ambiguous policy to stop new recruitment, to promote voluntary return and to integrate socially those who were unlikely to return was introduced into German migration management (Heckmann 1994: 161).

The 1990s brought a new turn to Germany's migration policy. The falling down of the Iron Curtain and German reunification eliminated a major migration barrier to the country. At the same time, the civil war in Yugoslavia generated massive refugee movements which were hosted predominantly by Germany and Austria (see Annex 1, Figure 1.1.). These refugee migration movements culminated in 1992 at a peak of 438,000 applications, while the immigration of ethnic Germans - since 1990 predominantly stemming from the states of the former Soviet Union - reached its climax already in 1990 counting 397,000 immigrants (see Annex 2, Table 2.1).

2. The evolution of Germany's migration provisions

In 1965 post-war (West) Germany enacted its first legal provision in matters of immigration and stay, replacing the 'Foreigner's Police Decree' from 1938 and harmonizing various regulations of the single Bundeslaender by a new foreigners' law (Santel & Weber 2000: 111; Treibel 1999: 56f).

The halt on recruitment for non EEC nationals ('Anwerbestopp') in 1973 and the official policy of promoting voluntary repatriation - as central elements of the new paradigm of Germany's migration policy - unintentionally led many foreigners to stay in the country as the option to re-entry was explicitly rejected. In 1978, German parliament was concerned about rising conflicts among immigrant and autochthonous population due to problems of housing, medical services and school education, and approved the establishment of a 'Commissioner for the Promotion of Integration of Foreign Employees and their Families', affiliated to the Ministry of Labour and Social Affairs. In September 1979, first commissioner Heinz Kuehn published a memorandum on the state of integration of foreign migrants, demanding an active integration policy for the given migrant population (Geiß 2001: 128). Even if the establishment of such office might suggest that the need for integrating migrants was officially recognized, in the following two decades Germany's migration policy was marked by defensive and restrictive measures, and the development of a comprehensive integration policy stagnated.

In December 1983, the law for promoting the repatriation of foreigners came into force which subsidized voluntary return financially by granting the foreign workers' a share of their future German pension in case of permanently re-settlement abroad. About 250,000 migrants returned under this scheme, but the expectations of the government were not met: The repatriation numbers were far below the intended figures, and it turned out that many of the returnees only accelerated their already planned return project in order to benefit from the programme (Santel 2000: 112). While the intended result of the law was very limited, its implicit symbolic message both to the foreign population and the German public was boldly visible and counteracted the goal of social integration of settled migrants (Meier-Braun 1988: 69). Although the halt on recruitment officially stopped demand driven migration to Germany, and, as a consequence, the figure of employed foreign workers consequently decreased from 2.6 mio. in 1973 to 1.6 mio. in 1984, approx. 3 mio. foreigners settled to Germany until 1980 via family reunion (Lederer 2001: 141). Besides this widely ignored family reunion, at the late 1970s a second side door for immigration became relevant: supply driven immigration via the asylum procedure according to article 16a (2) of Germany's Basic Law (Grundgesetz). From 1980 onwards, the question of the right to asylum became the focus of public discourse on migration and of numerous legal initiatives and deterring measures (Bosswick 1997: 56f): In the national elections campaign of 1986-1987 conservatives claimed a serious threat to German national identity by multicultural foreign infiltration which coincided with increasing numbers of asylum seekers from non-European countries such as Sri Lanka, Iran and Lebanon (Bosswick 2000: 46; Lederer 1997: 274). During the same year, the number of xenophobic attacks against asylum seekers and foreigners increased (Lederer 1997: 167), suggesting a direct link to the heated public debate on asylum in the country. Nevertheless, the government argued that the number of asylum

seekers should be reduced in order to solve unrest within the German population and to combat this violence, thus legitimating the alleged causes for xenophobic attacks (Bielefeld 1993).

In 1990/1991 the conservative government under Kohl established a new foreigners' law, replacing the 1965 regulations. The new law regulated immigration and the legal status of immigrants under the family reunion scheme, replacing various Laender regulations and the hitherto large discretion of the foreigners' authorities. Further, it guaranteed return to Germany for foreigners with permanent residence status. Although the new law was heavily criticized for its restrictive tendency in many aspects (i.e. Huber 1992), especially its provisions regarding German naturalization law assumed an innovative character: For the first time, foreigners residing in Germany for fifteen years were entitled the right to naturalize instead of the previous discretionary decision by foreigners' authorities (§§85, 86 AuslG 90), and naturalization was eased for foreigners between sixteen and twenty-three years if they stayed continuously in Germany for eight years. This introduction of *ius domicilii* into the German citizenship legislation officially acknowledged the fact of long-term resident migrant minorities, although the right was limited by a 1995 deadline. For the first time in the history of German migration policy these amendments introduced elements of the citizenship regulations of 'classical' countries of immigration, although under quite restrictive conditions. Naturalization was understood by the government as a 'final step of a successful integration process', a concept upheld by the conservative mainstream today still.

At the beginning of the 1990s, two other schemes for immigration were introduced into Germany's migration policy which raised little interest in public, but in fact finished the policy of non-immigration adopted since 1973.

One legal entry to immigration was opened by the last, already democratic elected government of the post-revolution GDR in 1990, enacting a law which allowed immigration of Jewish persons from the former Soviet Union via a facilitated procedure. After the reunification in October 1990, united Germany continued to practice this scheme. Although the numbers were comparatively low (approx. 160,000), this immigration had a huge impact on the small Jewish communities in Germany. Some of them became quadrupled within a decade, which raised serious difficulties for the communities to handle the immense task of integrating their new members. This immigration path was strongly restricted in 2006 by new administrative regulations which were issued in consensus with the Jewish communities in Germany.

The second scheme was constituted by the so called 'Anwerbestoppausnahmeverordnung' (decree on exceptions from the halt on recruitment), enacted in 1990, which affected German society at a larger scale by defining groups of labour migrants admitted to entry. Within this regulation, 'Werkvertragsarbeitnehmer' (contract labourers) and 'Saisonarbeitnehmer' (seasonal workers) were the most relevant groups. The term 'contract labourers' defined employees of foreign companies, subcontracted by German enterprises, usually in the construction industry. These 'contract labourers' were admitted to stay for a maximum of three years; to meet labour market requirements, the Ministry of Labour and Social Affairs determined regular quotas for each year. Bilateral agreements on this programme were concluded with several Central and

South East European countries. Although contracting foreign labour had de-facto existed since 1982 at a small scale of 10,000 to 20,000 labourers, these numbers started to grow only during the 1990s. In 1992 they reached the maximum of 95,000. Nevertheless, the programme provoked harsh criticism by German labour unions. During the following years, the quota was not exhausted anymore (Lederer 1997: 249). In contrast, the employment of seasonal workers did not raise major opposition: Since 1991 they were admitted for a maximum of three months per year, if the given labour demand in certain sectors (farming, foresting and gastronomy) couldn't be fulfilled by German or EU citizens. Their numbers ranged from 130,000 in 1991 to 221,000 in 1996.

Furthermore, since 1991 guest employees from Central Europe were granted entry to a maximum stay of eighteen months for language and acquisition of special professional skills, and qualified labourers of certain professions (hospital and geriatric nurses, language teachers, speciality cooks, scientists, managers, highly qualified specialists, artists, mannequins, professional sportsmen and coaches) were accepted in small numbers without explicit limitations on numbers and duration of stay. Finally, citizens of neighbouring countries were accepted as commuters (maximum of two nights per week in Germany).

In substance, these immigration programmes did not contribute significantly to the migrant population in Germany, although they regularized demand-driven immigration for the first time again since 1973. Notwithstanding the small numbers of admitted migrants, each of the nine doors for immigration (1.) EU internal migrants, 2.) spouses and children of permanently resident foreigners, 3.) ethnic Germans, 4.) Jewish immigrants from CIS countries, 5.) asylum seekers and 6.) Geneva Convention refugees, 7.) temporary protection refugees, 8.) new guest workers (contract labourers etc.) and 9.) foreign students) was accompanied to a varying degree by irregular movements or employment. Especially the supply driven asylum system became increasingly linked to illegal migration and human smuggling or disappearance after an unsuccessful asylum claim. A relevant source of regular immigration, family reunion, can only be estimated in its size, since no central statistics were available. A calculation of the upper limit for family reunion immigration during the 1990s, resulted in an annual average of 400,000 persons (Lederer 2001: 154). Although the unknown real numbers were lower than these upper limits, family reunion immigration was likely to be the most significant immigration source to Germany, clearly exceeding all other immigration schemes during the 1990s.

Ignoring this factual relevance of immigration sources, Germany's 1990s were dominated by the heated political-public discourse on asylum. Facing increasing political pressure from local communities sheltering incoming migrants and with a view to accord with the 'London regulations' of 1992 at the EU level, the Social Democratic Party (SPD) in December 1992 agreed to a compromise for an amendment of article 16a of the German basic law. Among other regulations, the right to asylum became restricted by the safe third country rule; the immigration of ethnic Germans was limited to approx. 225,000 persons annually, and the citizenship law was amended (Bosswick 1997: 67). Since legal access to the German asylum procedure was possible only via an airport (approx. 17,500 applications until end of 1999), the vast majority of the 811,000 asylum seekers between 1993 and the end of 1999 entered illegally and hid their entry path, thus

leaving the safe third country rule of the amendment quite ineffective (illegal entry followed by an immediate asylum application is not persecuted). A consequence of the 'asylum compromise' of 1992 together with an intensified border control was an increasing market for professional smugglers which became necessary for crossing the German border.

In general, German foreigners' policy continued its restrictive course during the 1990s, introducing another amendment to the foreigners' law in 1997 which required visa for foreign unaccompanied children from Turkey, former Yugoslavia, Morocco and Tunisia, and the requirement of an application for residence permit for already resident foreign children of parents from these states. Especially the asylum and temporary protection regulations became extremely restrictive, pushing the vast majority of civil war refugees from the Balkan into a 'voluntary' return (Bosswick 2000: 50).

The new millennium, though, brought significant changes to Germany's migration policy. In line with a profound turn in German discourse from restriction towards a connotation of immigration as an important resource in global competition, the then Minister of Interior, Otto Schily, promoted a general reform of the German immigration and foreigners' legislation and installed an independent commission on immigration for proposal development. The commission assembled politicians, representatives of important institutions such as churches, unions, industry associations and experts under the presidency of the former president of the parliament, Rita Suessmuth (CDU), and presented its results on 4 July 2001 in a comprehensive and well founded report (Zuwanderungskommission 2001). In this report, the commission concluded that immigration has become a necessity for economic as well as demographic reasons, thus recommending the introduction of a point system similar to the Canadian model. Regarding institutional setting, the commission report suggested the establishment of a Federal Office for Immigration and Integration, whose function would be to co-ordinate immigration and refugee protection. The commission's recommendations were welcomed by the SPD, FDP and the Greens, as well as the UNHCR, churches, employers, unions, foreigners' councils and representatives of migrant groups. The two main conservative parties, CDU and CSU, though, rejected the proposals, criticising them as extending rather than limiting immigration.

Shortly after the presentation of the commission's report, the Minister of the Interior Otto Schily presented a proposal for a new immigration and foreigners' law. This proposal only partly followed the commission's recommendations such as intending a complete restructuring of the foreigners' law, but fell behind in several areas (especially in the field of asylum and the age limit for the immigration of children within the family reunion scheme). Making such concessions to the conservative opposition, the government tried to gain the necessary support in the second chamber, the Bundesrat, dominated by Laender under conservative governments, but was rejected by the conservative joint CDU/CSU opposition ruled by the Bavarian Prime Minister Edmund Stoiber (CSU). After intense discussions and several rounds of conferences in the two chambers, representatives of the governing coalition member Bündnis 90/Die Grünen (Greens) in April 2004 declared the breakdown of the negotiations. Further exploratory talks in which chancellor Gerhard Schroeder negotiated face to

face with opposition party leaders Guido Westerwelle (FDP), Angela Merkel (CDU) and Edmund Stoiber (CSU), were needed, before he could present a compromise proposal in May 2004 that was eventually accepted by all parties involved. After further follow-up talks between Federal Interior Minister Otto Schily (SPD), Saarland Premier Peter Mueller (CDU) and the Bavarian Interior Minister Guenther Beckstein (CSU) on 1 July 2004, the compromise passed the Bundestag, and on 9 July the second chamber Bundesrat, coming into force on 1 January 2005.

This new immigration law introduced several innovations to Germany's migration management, reducing the various residence titles of Germany's past migration schemes to the number of two, a limited residence permit and an unlimited settlement permit.

With regard to labour migration, the law offers the option of permanent residency for immigrating highly qualified persons if they invest at least €1 million and create at least ten jobs. Foreign nationals who have graduated from a German university or college are allowed to stay a further year after graduation in order to seek employment in Germany. The ban on the recruitment of unqualified labour and persons with low qualifications was maintained, covering also qualified persons with the exemption of individual cases in which a public interest for their employment is stated. The originally proposed point system for immigration similar to the Canadian regulations was abandoned as part of the compromise.

With regard to humanitarian immigration, refugee status is also granted in case of non-state and gender-specific persecution, pursuant to the EU asylum directive.

With regard to integration, several provisions for integration measures were implemented in the new law: New immigrants eligible for permanent residency are entitled to participate in integration courses. Under certain conditions, participation can also be mandatory for resident foreigners, such as long-term residents receiving welfare payments, or migrants classified by the authorities as 'in special need of integration'. If respective persons refuse to participate in the integration courses, possible sanctions include a reduction of welfare payments. Furthermore, their refusal will be taken into account in decisions on extending their residence permits. These integration courses are funded by the federal government. The Laender governments cover the costs for accompanying social pedagogic counselling and for participants' child care during the course units.

With regard to ethnic German immigrants (Spaetaussiedler), family members accompanying ethnic German immigrants are now requested to proof basic German language skills before immigrating to Germany as a reaction to increasing integration problems of these groups.

In the area of security issues, the compromise introduced an extended deportation order which can be issued by state or federal authorities on the basis of an 'evidence-based threat assessment'. Legal redress is limited to a single appeal to the Federal Administrative Court. Mandatory expulsion was introduced for foreign nationals who are members or supporters of terrorist organisations. Discretionary expulsions can also be imposed on so-called 'intellectual arsonists' (e.g. 'hate preachers' in mosques). If a deportation cannot be effected due to obstacles to deportation (e.g. risk of torture or the death penalty), the foreigner has to report to the authorities on a regular basis.

For the first time in Germany's legislative history, regulations for immigration, labour market access, the stay of foreigners and the integration of resident migrants are combined to an integrated legislative act, differentiating according to the purpose of residence only. The hitherto parallel application process for a residence permit at the foreigners' authorities and a work permit at the labour authorities with its mutual interdependencies and bureaucratic overhead was replaced by a single procedure at the local foreigners' authorities ('one stop government'). With regard to refugees, the law did not refer anymore to the right to asylum which carries a long history of political controversies, but regulates residence permits for political asylees as well as other refugees (Geneva Convention, de-facto refugees) under the common heading 'Humanitarian Immigration', thus abolishing the discrimination of refugees who do not meet the narrow criteria for political asylum (Bosswick 2002: 46). A completely new feature of the law is the inclusion of integration measures.

The former Federal Office for the Recognition of Foreign Refugees (BAFl) in Nuernberg was renamed to Federal Office for Immigration and Refugees (BAMF) and was assigned to administrating the implementation of the new law. It cooperates with the labour offices and the federal labour administration and is in charge of issuing regulations for integration courses, and implementing the integration measures on the federal level in cooperation with local institutions.

Table 2.1: Milestones in Germany's migration provisions

1965	Foreigners' law
1973	'Anwerbestopp': halt on recruitment for non EEC-nationals
1978	German parliament approved establishment of the 'Commissioner for the Promotion of Integration of Foreign Employees and their Families', affiliated to the Ministry of Labour and Social Affairs
1983	Law for the promotion of foreigners' repatriation, political mobilization against 'abuse of the right to asylum'
1990	New foreigners' law, replacing the 1965 regulations
1990	'Anwerbestoppausnahmeverordnung': decree on exceptions from the halt on recruitment, escalation of the dispute upon asylum and the constitutional article 16 (right to asylum for political refugees)
1992	So called 'asylum compromise': amendment of article 16 of the German basic law, restricting the right to asylum by the safe third country rule; amendment to the German citizenship law (introducing a limited <i>ius domicili</i>)
1997	Amendment to the foreigners' law: Increasing the visa-requirements for foreign unaccompanied children
2000	Installation of an Independent Commission on Immigration (important representatives of NGO's, churches and business), recommending the introduction of a point system similar to the Canadian model in its final report in 2001; introduction of <i>ius soli</i>
2001	Proposal for a immigration and foreigners law by the Minister of the Interior, Otto Schily, resulting in a prolonged political conflict among the conservative opposition and the government being supported by most civil society and trade associations
2005	New foreigners' law, combining regulations for immigration, labour market access, the stay of foreigners and the integration of resident migrants to an integrated legislative concept for the first time
2007	New foreigners' law introduced 15.07.2007

3. Immigration and immigrant policy-making in contemporary Germany

Although a consistent integration policy came into force in Germany in 2005 only, the beginning of practices of immigrant's inclusion are closely intertwined with immigration policies from the early fifties onwards. Thus, immigration and integration policies are not dealt with separately. Moreover, the Germany nation and society assumed their contemporary forms only recently, i.e. with its reunification in 1990, which constitutes the starting point of this section, highlighting discourses and actors of policy-making in Germany.

3.1 Policies from 1990 onwards

The migration policy of unified Germany of the 1990s has been shaped by worries of major migration movements after the fall of the Iron Curtain. From 1990 until 1997, a series of restrictive amendments related to foreigners' law, Ethnic Germans and readmission agreements were made following one another in short intervals. The public discussion has been focussed on the asylum issue and, after 1993, on bills and measures which aimed at restricting immigration. This policy has been described by Treibel as declaring a fundamental position directed to the residing population with migratory background as well as to potential immigrants: Conditioned toleration and maintenance of control for immigrated persons, scepticism and deterrence towards potential immigrants (Treibel 2001: 115). Some aspects of the amendments, however, introduced also liberal elements such as the right to naturalization under certain conditions for long-term legal residents and children of foreign parents born in Germany. These aspects, however, remained largely unknown within the public discourse.

Ethnic Germans

With regard to the origin, immigration of Ethnic Germans (Spätaussiedler) changed considerably at the beginning nineties, shifting to a predominant percentage of Ethnic Germans from the former Soviet Union successor states. Due to high intermarriage and considerable assimilation of Ethnic Germans in the Socialist USSR, most of these immigrants were lacking proficiency of German language and had no relation to the culture of the traditional German minorities. In public discourse, these immigrants increasingly met restraints, and the assumption of quick immersion of these Ethnic Germans which in general held true until the late eighties for the majority coming from Romania and Poland became seriously challenged. Already as part of the 1992 constitutional amendment compromise, the immigration of Ethnic Germans was ceiled by a quota. The factual immigration has been further limited by slowing down the processing at the German embassies, and the 2005 immigration law increased restrictions by requiring that family members accompanying ethnic German immigrants proof basic German language skills before immigrating to Germany.

The hitherto well funded integration provisions for Ethnic Germans faced serious cuts during the nineties and an institutional re-setting. The Federal

Commissioner for Ethnic Germans at the Federal Administration Office (Bundesverwaltungsamt) allocated to the Federal Ministry of the Interior were reassigned by the new Foreigners' Law. The Federal Administration Office, processing immigration, allocation and integration measures for ethnic Germans became then integrated into the Bundesamt für Migration und Flüchtlinge (BAMF), the former BAFl assuming also the competences for integration policies for Ethnic Germans at the national level.

Labour migration

A significant, however barely noticed change in labour migration policy has been the 'Anwerbestoppausnahmereverordnung' (decree on exceptions from the halt on recruitment) enacted in 1990. Only the contract labour scheme (Werkvertragsarbeitnehmer) triggered a public dispute since these contract labourers were subject to the social security regulations of their country of origin. The Unions strongly opposed this programme affecting the wage levels and unemployment in the construction sector, and criticised it as a pilot programme for lowering social standards on the labour market. Further openings on labour migration following in 1991 (seasonal labour, guest employees from Central Europe, qualified labourers of certain professions, commuters) were less controversial, although they constituted a regularized demand-driven immigration for the first time again since 1973, since these groups have been included into the German social security system. Restrictive amendments to the foreigners' law of 1997 (visa requirements for foreign unaccompanied children from Turkey, former Yugoslavia, Morocco and Tunisia and obligatory applications for residence permit for already resident foreign children of parents from these states) were barely noticed by the general public discourse but created considerable disappointment and some bitterness among the residents with migratory background.

With regard to immigrant's inclusion, the 1990 foreigners' law introduced for the first time a right to naturalize not being under discretion of the foreigners' authorities. Nevertheless, the impact of the still restrictive naturalization policy on the integration of the resident families with migratory background could not be ignored further. After the national election campaign of 1994 and as a measure against xenophobic violence, the conservative government promised a reform of the citizenship law. It has not been implemented, however, due to the impracticability of the 'Kinderstaatszugehörigkeit' proposed by the conservative Bavarian government, providing for a kind of limited citizenship for foreign children born in Germany. When the Social Democrat/Green coalition came to power in 1998, one of its first activities was the amendment to the citizenship legislation (May 1999). The governing coalition introduced *ius soli* for children of foreigners born in Germany, and reduced the residence time span requirement of the 1992 *ius domicili* regulation from fifteen to eight years of legal residence. Originally, dual citizenship should have been accepted as a rule for the first and second generation. This intended regulation was used by the conservative CDU in the 1999 election campaign of Hesse, starting a massive campaign against dual citizenship. This campaign which took up xenophobic mood in the population, contributed to a narrow success of the conservative CDU coalition with the liberals, as a consequence voiding the hitherto Social Democratic/Green majority

in the second chamber, the Bundesrat. Since the amendment had to pass this chamber, the dual citizenship regulation had to be taken out of the bill, resulting in an obligation of *ius soli* children to opt for the German citizenship or the citizenship of the parents in the age between eighteen to 23. The consequences of implementation of this rule and its potential constitutional problems are still unclear. The reform of German citizenship law introduced the concept of naturalization as an important step supporting the integration process into official policy and finally ended a situation of which the numbers of naturalisations during the first half of the nineties were exceeded by the number of foreign children born in Germany by more than 80 per cent, thus resulting in a foreigners' population which would grow even at zero net immigration levels.

As with citizenship and naturalization law, in the field of immigrant policies no major changes in official policy took place until the change to the Red-Green government in 1998. The social integration of resident labour migrants and the second generation, however, has been actively promoted already since the early seventies by numerous institutions, namely the large publicly funded 'Wohlfahrtsverbände'² (recognized welfare organizations), the local communities, and the local labour administrations (integration measures into the labour market). During the nineties, these programmes differentiated to a broad scope of services for migrants such as community related social work, social pedagogic counselling also for migrant families and young migrants, health care, support for transition into labour market, language acquisition, drug addicts counselling, probation support for adolescent criminal offenders, counselling for schooling and educational career as well as for vocational training. In most cases, these services were not explicitly directed towards migrants, but in fact had a large share of resident migrant population among their clients. These programmes on the local level have been an important contribution to the integration of the migrant population and for the prevention of conflicts. An analysis of their extent resulted in a minimum of 70 mio. Euro annual expenses (1999/2000) only for measures explicitly directed to the foreign migrant population and implemented by the large welfare organizations; the real efforts have been considerable higher since this calculation could not include measures funded by the local communities and measures implemented by other organizations. The total volume spent only by the welfare organisations for specific migrant integration measures summed up to a minimum of more than 158 mio. Euro per year (Bosswick 2001: 46). These decentralized integration activities by welfare NGO's and local communities were widely ignored in the political discourse. Nevertheless, as a result of these massive efforts for the integration of migrants during the nineties, social integration of second generation of migrant youth has been well enough for preventing riots and major conflicts. Namely in the field of transition into the labour market, the German practice has been comparatively successful, while the legal admission and integration in terms of identification to the country falls behind other European countries, likely due to the restrictive citizenship practice (Heckmann et al. 2001: 16).

With enacting the new migration law in 2005 the Federal Office for

² Caritas (Catholic), *Diakonie* (Protestant), *Arbeiterwohlfahrt* (labourers' movement), later on the DPWV (independent NGO umbrella organization), German Red Cross and ZWST (Jewish communities).

Migration and Refugees (BAMF) became in charge of issuing guidelines for integration measures, while the obligatory 600 hours of language training requested for newcomers are implemented by local providers. These more than 5,000 institutions belong to a large extent to welfare organizations and private institutions which performed language training already under the previous practice, hitherto funded mainly by the Federal Labour Office (courses for unemployed foreigners). The new market, however, attracted also new providers such as schools for Russian speaking relatives of Ethnic Germans. Although the guidelines forbid ethnic homogenous classrooms, the latter often specialized on Russian speaking participants from their community, using to a certain extent Russian language during the training. In 2006, a major evaluation of the language course programme prescribed by law has been implemented. Results are still not published, however, the low numbers of participants passing the final exams point to a quite limited effectiveness of the new programme. The Federal Office for Migration and Refugees also started several pilot programmes for integration measures at the local level, cooperating with cities and welfare NGO's which have long standing experiences in integration programmes. The traditional separation of integration programmes for Ethnic Germans, guest worker families and recognized asylum holders is to a certain extent abolished under the new regulations, since the Federal Office is now also in charge of Ethnic German immigrants and their relatives.

Since 1998/2000, the discourse on migration issues has changed considerably in the *national policy discourse*, leading to a series of political actions and legal amendments (see Table 2.1 and Figure 4.1). As one of the most relevant events then chancellor Schroeder announced the introduction of a so-called 'Green Card' for the recruitment of foreign information technology experts during Hannover's computer fair CEBIT in March 2000 (Currell 2004: 21f). Although the proposed regulation was more like the U.S. H1-B visa regulations and not comparable at all to the U.S. Green Card, and although the new regulation did not exceed substantially the exceptions from the halt on recruitment being in force since 1991, this proposal had a massive side effect. Public discourse on immigration made a profound turn from the restrictive tendency and perception of immigration as a burden towards a connotation of immigration as an important resource in global competition. The conservative mainstream faced to its surprise harsh criticism from the industry which demanded liberal immigration regulations, and adjusted its hitherto very restrictive position, departing from the prominent mantra 'Deutschland ist kein Einwanderungsland' (Germany is not an immigration country) (CSU position paper, 23.4.2001). This position paper, however, marked the beginning of an almost four year struggle upon German migration policy between the conservative parties CDU and CSU and the governing coalition. While the coalition held a majority in the parliament, the lacking majority in the chamber of the Laender resulted in a deadlock upon the new immigration law. In this period, the conservative parties faced mounting pressure from most relevant actors such as the industry, employers, unions, churches, welfare organisations and other major NGO's, to agree to a new law in 2005. This kind of society-driven development of national policies can be observed as well in the area of the German education system: Due to the federal based discretion on education issues, a comprehensive perspective and national strategy on schools and education in the

country was missing for years. This educational fragmentism started to become a national matter only recently, due to European 'harmonization' and the 'PISA-shock' that moved Germany in 2000 and 2003. The striking poor proficiency in German language and general poor education performance of pupils with migration background throughout the country encouraged local schools to highlight the limits of federalized education and to demand effective diversity policies. Simultaneously, German education policies face increasing legitimacy pressure of Europeanization by EU directives. This combination of bottom-up and top-down pressure lately compelled national politicians to engage themselves in the subject (Kellner & Strunz 2006, Migration und Bevölkerung 2006: 2, 3 & 9, Özcan 2005).

Asylum

Since 1987, the conservative government argued in several national and state election campaigns that the rising numbers of asylum seekers could only be stopped by an amendment to the constitution, and that the refusal of the opposition to vote for the required two-third parliamentary majority hinders the government to solve this serious problem. In face of the sharply rising application figures at the beginning of the nineties, the government and the media adopted an image of emergency. In face of this political pressure and the escalation of violence, the Social Democratic opposition finally agreed on a compromise amending Article 16 (2) as part of a whole package of other regulations in the area of foreigners' policy. An important reason for this fundamental shift of the opposition's position has been the massive pressure within the party from the level of local communities which had to cope with the problems of inadequate resources for taking care of the large numbers of asylum seekers. Although the amendment of the German Basic Law (GG) raised some criticism among intellectuals and the Social Democratic party, the general public believed the problem was solved, and the ability of politicians to deal with high asylum-seeker numbers seemed to be restored. A sharp decrease in application numbers and a considerable increase in expulsions gave the public the impression that the amendment had been the key element in ending the emergency situation. There are strong indications, however, that the amendment played a minor role (Bosswick 1995, 328), constituting a case of symbolic politics on an old conflict line within the German political discourse: ethnic nation state versus republican constitutional patriotism (Mommsen 1990: 272). The level of xenophobic attacks, however, remained high compared to the figures before the asylum debate escalated in 1990.

Although the amendment had created a cordon sanitaire for legal access to asylum by its safe third country rule, and the application figures fell already in 1995 below the level of 1989, German asylum policy perpetuated a very restrictive course during the following years. In contrast to the decades before, the high courts in general supported this restrictive policy. Due to the low asylum applications figures and minimal recognition rates, this policy focussed on repatriation and deportations. In 1996, approx. 345,000 war refugees from Bosnia-Herzegowina lived in Germany. Since the regulations of the 1992 Parteienkompromiss (party compromise) for war refugees (§ 32a AuslG) were not implemented due to a conflict among the federal government and the state

governments on the funding for war refugees under the envisioned temporary residence status, about 80 per cent of the refugees obtained a toleration status only (Lederer 1997: 309). After signing a readmission agreement with Bosnia in November 1996, an intensive repatriation program was launched in 1997. The program, applying certain pressure for voluntary return, resulted in the repatriation of approx. 250,000 refugees to Bosnia-Herzegovina until autumn 1998 (see Schlee 1998). For Albanian refugees from the Kosovo, a general readmission agreement has been signed on 10 October 1996 by the German and the Yugoslavian government (Lehnguth 1998: 362ff), and expulsions (mostly of criminal offenders) continued until 8 September 1998, when the EU embargo impeded the deportation via the Yugoslavian airline. In mid-1999, still approx. 180,000 tolerated Albanians from Kosovo lived in Germany, most of them having entered illegally (Lederer 1999: 35). Both large groups of war refugees from former Yugoslavia were effectively excluded from access to asylum and are in their vast majority locked into the precarious status of being tolerated.

In working out a migration policy at the European Union level, Germany was involved as an important actor (Saarbrücken Agreement with France on border controls of 13 July 1984, leading to the Schengen I agreement of 14 June 1985) from the beginning. Implications of free movement of persons within the EU for migration and asylum policy became soon apparent and led to a multitude of intergovernmental work groups (Guild 1999: 317f) and to the Schengen II and Dublin agreements in 1992 which explicitly regulated asylum matters within the EU. The Maastricht compromise of 7 February 1992 summarized asylum and migration matters within the 'third pillar' on the intergovernmental level. Although the Treaty of Maastricht provided for duty to inform the European Parliament in Article K.6, the ministries of the interior effectively continued to exclude national and European parliaments from their activities until 1995, a habit which was strongly criticized (Tomei 1997: 47f). Until 1995, only little information was accessible concerning the details of asylum policy within the European Union, and in 1992 the German government could refer to the Schengen and Dublin agreements as if they would require a change of German asylum right – an example of the tendency which De Lobkowicz described as using the membership in the EU as an alibi for justifying executive measures before the parliament and the population (1996: 52).

Since the second half of the nineties, the asylum issue ceased being a topic for major public debates in Germany, and quite a consensus for restrictive policies dominated the political discourse. The Red-Green Coalition Agreement of 20 October 1998 mentioned only few points of asylum matters under the heading IX. Security for all - Strengthen Citizens' Rights, point 6 (common European asylum and migration policy based on the Geneva convention, burden sharing) and point 7 (examination of the detention for expulsion's duration and of the airport procedure on their appropriateness, stay permit regulation for long term tolerated foreigners, gender-specific asylum claims). Pro Asyl published a very critical analysis of this coalition agreement (see Pro Asyl 1998b).

During the struggle for a new immigration law (coming into force in 2005), several initiatives were launched for regulating the precarious situation of about 250,000 foreign residents with toleration status which usually has to be renewed every three months, does not grant access to the labour market and limits the

freedom of movement to the local district. Toleration is not a legal residence status but a suspension of deportation only due to humanitarian or impracticability reasons. Although the new immigration law provided for abolishing the established practice of denying temporary residence status while issuing short term tolerations ('Kettenduldungen'), the local foreigners' authorities continued this practice, ignoring the intention of the legal amendments by applying restrictive interpretations. Several attempts to find an agreement for issuing legal residence status to long term migrants being in fact already quite integrated failed; on meetings of the perpetual conference of the regional Ministries of Interior, no compromise could be found yet. Although in December 2005 several NGO's, churches, welfare organisations, the Unions, the parties SPD and the Greens as well as the Federal Commissioner for Integration Böhmer (CDU) and the Laender Hestia, North Rhine-Westphalia and Berlin supported a permanent residence status for a part of the 200,000 tolerated refugees in Germany, the bill died due to the opposition of the Laender Bavaria, Saxony and Lower Saxony ruled by the conservative CDU/CSU.

A small, although relevant abolishment of restrictive practices in asylum policy was made by administrative regulations for the recognition of refugees by the Federal Office for Migration and Refugees issued on the last day of the deadline for implementing the EU Asylum Directive (see Bundesamt 2006). These regulations finally implemented corrections to very restrictive decision-making and court ruling practices which had been frequently challenged in previous years. It can be assumed, that the conflict in German politics on these practices has been compromised behind the scenes, influencing already the formulation of the EU asylum directive.

The European context

The German activities at the EU level and towards Central European countries refer to three main areas: Harmonization of the asylum right, border control and readmission, and burden sharing within the EU.

With regard to harmonization of asylum right, a notable step has been the German support of the deviant interpretation of the Geneva Convention's definition of the term refugee as stated by the EU Joint Position on 4 March 1996 (Guild 1999: 331). It has already been applied by German courts before (see Zimmer 1998). Harmonization within the EU also refers to cooperation between the national asylum authorities; in September 1994, the German Bundesamt started meetings with French, Belgian and Dutch authorities, which led to a regular exchange of staff members as contact officials (Bartels 1996: 72f). Since 1996, such working-level cooperation with other authorities has been also expanded to different Central and South-East European countries. Bulgaria, Lithuania, the Czech Republic, Slovakia and Poland were pushed in setting up asylum regimes which would stand the criteria for the application of the 'third safe county' rule (Lavenex 1999: 87ff and 156f).

Regarding readmission agreements and border control, Germany took a leading role within Europe and towards its Eastern neighbours: It supported tightened border controls of Central European countries towards their Eastern neighbours and initiated the Budapest Process, which – although dealing primarily

with the prevention of illegal migration - affected also the European asylum regime (Lavenex 1999: 102ff).

Institutional setting in the 1990s

Since Germany's reunification the competences for migration and integration policies have been several times reallocated.

The Ministry of the Interior is presently in charge for the foreigners' law and its implementation, for border security (Federal Border Police) as well as for asylum and asylum procedure at the Federal Office for Migration and Refugees (BAMF) in cooperation with the Ministries of the Interior of the Laender and a permanent working group of experts from the Laender ministries on asylum policy (ArgeFlü). The local foreigners' authorities are in charge of deciding upon the residence status of foreigners according to the foreigners' law and upon naturalization; they are governed by their regional Laender Ministry of the Interior.

Until 2005, the Ministry of Labour and Social Affairs has been in charge of reminiscences of the guest worker programme such as measures for unemployed foreign workers (language training, integration courses), and responsible for labour migration (contract workers, seasonal workers, new guest worker programme, being exemptions to the halt on recruitment from 1973 made by the 'Anwerbestoppausnahmeverordnung' of 1991; IT experts due to the 'Green Card' programme of 2000). The local labour offices of the Ministry of Labour were also in charge for checking the requirements for a work permit which are examined in a process independent to the residence status determination by the local foreigners' authorities. The Federal Commissioner for Foreigners' Issues (Bundesausländerbeauftragte) belonged to the Ministry of Labour and Social Affairs. Counselling for former guest workers and their families has been financed until 2005 at 50 per cent by the Federal Ministry and 50 per cent of the State Ministry for Labour and Social Affairs (Ausländersozialberatung) as well as several programmes for migrant integration. In the course of the new Foreigners Law, the ministry transferred several responsibilities in the field of integration policies to the new BAMF which reports to the Ministry of Interior.

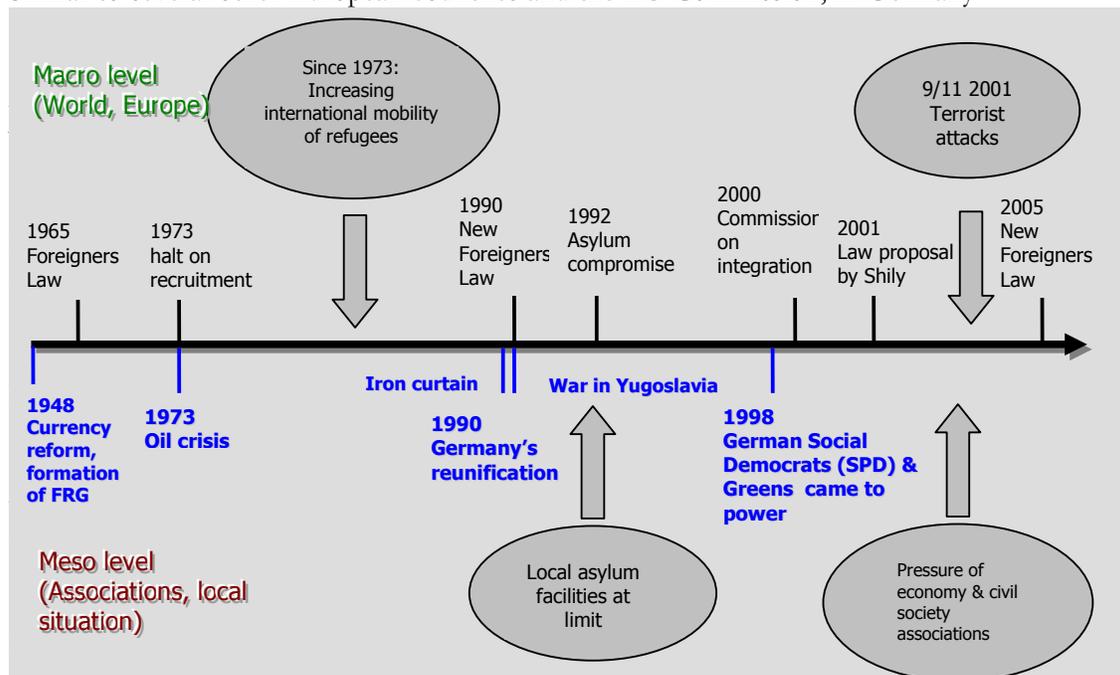
The Ministry of Family, Seniors, Women and Youth (BMFSFJ) is in charge for the integration of resident children and young people with migratory background and/or foreign citizenship according to the federal law on welfare for children and young people (Kinder- und Jugendhilfegesetz) which regulates the duties and obligations of public authorities for the support of families and minors, in general not specific to migrants with some singular exceptions. In 2002, the office of the Federal Commissioner for Foreigners' Issues was transferred to the BMFSFJ and was renamed to Federal Commissioner for Integration and Refugees. Under the new conservative-social democratic coalition in 2005, the Commissioner for Foreigners' Issues has been transferred to the chancellor's office and got the status of a secretary of state, a considerable expansion of its political weight. The new officer for Migration, Refugees and Integration, Maria Böhmer, belongs to the CDU and replaced the former officer Marieluise Beck (Greens). The new officer, however, has no record of migration and integration policy experiences and left the implementation of these policies to a large extent to the expansion strategy of the Federal Office for Migration and Refugees in the domain of the Ministry of the

Interior.

Other ministries involved had been the Ministry of the Exterior (issuing visa for family reunion and ethnic Germans, reports on the situation in refugee-generating countries). The competences in the field of visa issuing were limited by a requirement to consult the Ministry of Interior under certain conditions following a scandal regarding fraudulent visa applications in the German embassy to the Ukraine.

The Ministry of Education and Research is to a minor degree involved in issues regarding support of pupils with migratory background, but its competences vice versa the Laender policies on education are very limited.

These rearrangements of competences on migration and integration policies at the national level, namely the competences of the new BAMF for integration policies in Germany constitute a major change in the implementation especially of integration measures which hitherto had been to a large extent been up to German welfare organizations and the local level, namely the cities. The BAMF cooperates in its activities with the institutions on the local level, but one can expect an increasing effect of its responsibility for coordination of integration policies at the national level. In the field of language and integration courses, this process is already in a quite progressed state. At the same time, many cities started initiatives for a better coordination of integration measures at the local level, rearranging the competences for integration-related policies at the local level. Similar to several other European countries and the EU Commission, in Germany



In the case of Germany, the influx of migrants after the end of WWII as well as the immigration of refugees in the 1990s, originated by the War in former Yugoslavia, appear as systemic factors to migration policy-development. Those inflows constituted a rapid change of the present population and exercised pressure on asylum shelters in local realities. In comparison, the new challenges generated by the terrorist attacks in New York in 2001 had a sustainable impact on

the sphere of German national politics, rather than reflecting the de-facto situation in the country. Till today, Germany has not been hit by such terrorist acts as UK and Spain, and the potential confrontation of its Muslim and Christian population appeared to be mainly non-violent so far. Nevertheless, this supposed threat interfered in the national process of policy-making: it is likely that the treating of then Minister of Interior Schily's proposal for a new foreigner law in 2001 was made more complex by the overall association of migrants with Muslim faith and terrorism which eventually polarised political parties and individuals. In this rigid situation, actors of primary not political nature such as economists and civil society associations appeared to assume the role of path breaking entity, forcing German political system to take concrete actions on coming to compromise.

Besides these systemic factors the articles highlights as well cultural factors as constituted by Germany's reunification in 1990 which led to the creation of a different conception of the nation state. Until 1990, the strict *ius sanguinis* concept of the German citizenship law was in force which dated back to 1913, when it was put into force to provide citizenship for descendants of Germans having been born abroad in the colonies permanently (Oberndörfer 1989: 7). This ethnic nation state concept stemming from the German Romantik of the early 19th century in dissociation from the French republican concept of nation during the occupation by Napoleon had far reaching consequences: Germans in an ethnic sense, particularly German minorities in several Eastern and central European states, were entitled to German citizenship when migrating to Germany, while inclusion into a nation via naturalization which understands itself as a community of descent and culture was denied or at least defined as an exception to the rule (Heckmann 2001: 16). After the Nazi experience and the establishment of the German Federal Republic this ethnocentric conception of nation state was subsequently replaced and finally amended in 1990 (Mommsen 1990: 272f).

Germany's reunification had in fact substantial impacts on the general profile of German politics aiming vitally at establishing itself as equal partner on international parquet ever since. Another important turn in Germany's migration policy is linked to the political changes of 1998. With this government change, two decades of stagnation in official German migration and integration policy being guided by the paradigm 'Germany is not a country of immigration' seemed to have ended. In the course of a generic party change the pro-immigrant lobby of economic associations and civil society organisations gained influence on national policy formulation. Not by case the new German citizenship law introduced the concept of naturalization as an important step to integration into official policy for the first time in 2000.

In terms of international factors and their impact on the policy-making process it has to be stated that a comprehensive analysis of the implementation level of European provisions into German national law is still missing. Yet a general influence by processes of Europeanization are clearly recognizable: In November 2006, chancelloress Angela Merkel (CDU) and Vice-chancellor Franz Muentefering (SPD) declared themselves in favour of introducing obligatory language tests and German language courses for all children in the age between four and five years. Since the publication of the first Pisa-test in 2000 and especially the PISA special study on immigrant students in 2003 the lacking education performances of pupils with migration background is a constant concern

in Germany's public debates. In early summer 2006 when teachers of the Ruetli-School in Berlin retired from their instruction to education, stating that the pupil's aggression and poor proficiency in German language made teaching impossible, these discussions intensified. Political actions on regard, though, like the demanding of obligatory language certificates as formulated by Merkel and Muentefering have to be applied to all pupils in order to avoid confrontation with the ratified anti-discrimination directive of the European Commission (Bullion & Ramelsberger 2006, Kellner & Strunz 2006, Migration und Bevölkerung 2006: 2, 3 & 9, Özcan 2005).

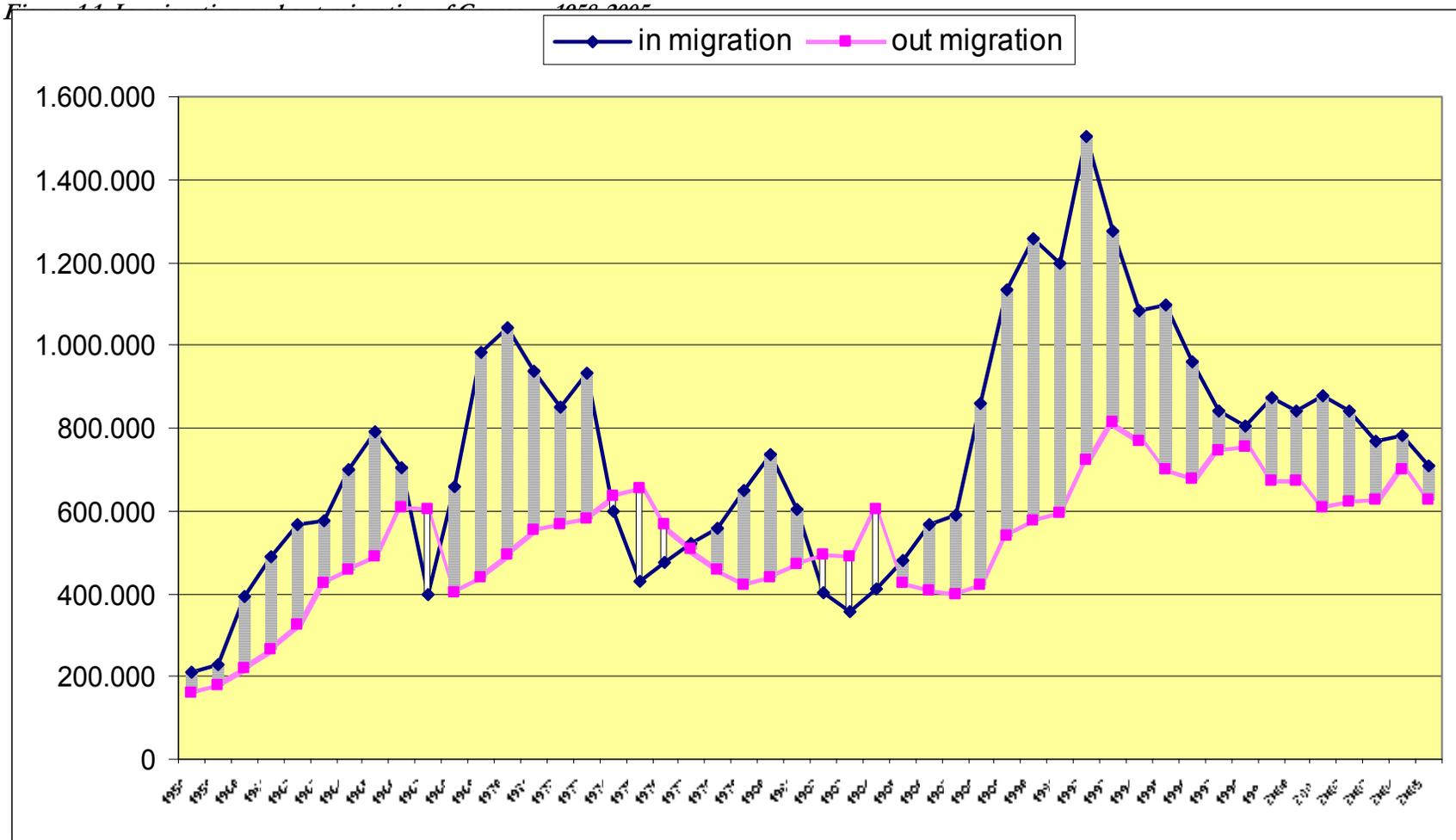
In conclusion one hypothesis remain to be articulated and discussed that might have already come to the reader's attention: the retarded reaction of national politics towards de-facto local developments and needs which immanently pressurises local governments and associations for innovative concepts and independent strategies able to tackle migration specific challenges. For fifty years this uneven relationship between national reluctance to consider itself a country of immigration and the pragmatic response to migrants needs on the local level has characterised Germany's migration history, causing frictions and competence dilemmas, and encouraging the formation of self-referent domains of migration management within one country. Vertical intervention and consultancy between the two policy-cycles, it could be shown, appeared to be subject of political inertia and rather the exception than political everyday-practice. Only with the 1998's government change, the stagnation in Germany's official migration and integration policy seems to have been mobilized.

For a long time, indeed, migration policy making in Germany has been strongly influenced by its instrumentalization for political mobilization, predominately by the conservative mainstream. The lack of official migrants' policies for several decades, and the domination of the political discourse by the asylum issue and restrictive agendas seem to be strongly related to the political power struggle. Events like the governmental change in 1998 and, paradoxically the terrorist acts of 2001, processes such as the intensifying Europeanization and especially changing demographic needs and ethnic diversification, stimulated increasing political interest in diversity matters. Once the topic has reached the official agenda it is unlikely to disappear. Germany's struggle to implement an effective diversity policy has yet begun. Still, on the scientific side, solid empirical data is lacking to explain the manifold connections, interactions and interferences between policy cycles and political actors.

In general, though, it can be stated that about 50 years of German post-WWII immigration history had to pass till its first comprehensive migration law came into force. Even if the area of migration and immigrant policy has been always conflict-prone, in Germany there has also been as strange mismatch between de-facto challenges and political responses which often amounted to mere symbolic policy. This pattern cannot be explained, however, only by referring to the instrumentalization of migration policy issues for the struggle among the political actors. To a certain degree, this debate has also been fuelled by more or less covered historical conflicts among the concept of the receiving society of itself. In the case of Germany, the struggle on article 16 of the German Basic Law (GG) can be interpreted as projecting the question of self-identification (ethnic nation state contra republican constitutionalism) onto specific subgroups of the

resident population, those with migratory background by excluding them as non-members, denizens. This pattern obviously became dysfunctional over time. As a new, although only temporary consensus in German immigrant policy, the demand for integration emerged. Contemporary disputes on integration policy and naturalization requirements, however, show complex conflict lines among the various Laender, between the national and the Laender level and between local governments, especially in major cities which developed extensive inclusion programmes, which tend to be counteracted by respective Laender policies. The spectrum of this new discourse on immigrant's incorporation ranges from rigid assimilation approaches in combination with threatening sanctions, to pluralist and revised multicultural approaches such as diversity policy. Although some old conflict lines re-emerge in this discourse, this new dispute on migrant integration, however, seems to be related closer to everyday-practices within the receiving society itself and strongly linked to practical issues of policy implementation on the local level. Thus, it could be considered as a progressive problem shifting from an ideological sphere to a more pragmatic dimension, promoting bottom-up perspectives on the one hand while simultaneously facing a top-down European 'harmonization' in this policy field on the other.

Annex 1



(source: Federal Office of Statistics, own elaboration; 2005 = preliminary data)

Annex 2

Table 2.1: Immigration to Germany by country of origin 1990-2005

Country of origin	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Poland	300.693	145.663	143.709	81.740	88.132	99.706	91.314	85.615	82.049	90.168	94.105	100.522	100.968	104.924	139.283	159.157
of whom Germans	99.802	17.276	11.983	6.623	9.486	12.468	13.909	14.401	15.943	17.958	19.961	20.872	19.502	16.904	14.654	12.214
Yugoslavia	66.484	222.824	267.000	141.924	63.481	54.418	43.148	31.425	60.144	88.166	33.326	28.637	25.773	21.754	20.628	16.963
Russia	-	-	84.509	85.451	103.408	107.377	83.378	67.178	58.633	67.734	72.152	78.979	77.403	67.289	58.594	42.980
of whom Germans	-	-	59.901	56.362	69.965	74.391	51.496	42.363	37.297	39.957	40.081	42.425	41.587	36.280	30.931	20.588
Turkey	84.592	82.818	81.404	68.618	64.811	74.558	74.344	57.148	49.091	48.383	50.499	56.101	58.648	49.699	42.222	36.341
Kazakhstan	-	-	86.864	107.076	131.469	123.277	98.137	83.242	56.128	54.054	54.906	53.149	45.865	32.821	24.698	15.384
of whom Germans	-	-	80.476	85.501	105.968	100.217	79.723	68.604	46.126	42.444	42.657	41.212	33.964	23.557	17.750	10.460
Romania	174.388	84.165	121.291	86.559	34.567	27.217	19.263	16.509	18.491	20.149	25.270	21.145	24.560	24.056	23.825	23.387
of whom Germans	96.236	22.752	11.475	4.953	3.187	2.403	2.194	2.262	1.459	1.346	1.079	817	757	600	586	514
Italy	39.679	38.372	32.801	34.238	41.249	50.642	48.510	41.557	37.660	37.212	35.385	31.578	26.882	23.702	21.422	20.268
Other	590.414	625.136	684.620	671.802	555.436	558.853	501.597	457.959	440.260	468.156	475.515	444.992	482.444	444.730	449.503	392.872
Total	1.256. 250	1.198. 978	1.502. 198	1.277. 408	1.082. 553	1.096. 048	959. 691	840. 633	802. 456	874. 023	841. 158	879. 217	842. 543	768. 975	780. 175	707. 352
Total Germans	-	273.633	290.850	287.561	305.037	303.347	251.737	225.335	196.956	200.150	191.909	193.958	184.202	167.216	177.993	128.051

(Source: Federal Office of Statistics, own elaboration; Yugoslavia: since 1991 including Croatia, Slovenia, Bosnia-Herzegovina and Macedonia, since 1992 Serbia, Macedonia and Montenegro, since 1993 only Serbia and Montenegro; Russia and Kazakhstan since 1992; 2005 = preliminary data)

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