

## Legal and Political Mechanisms for Attracting Skilled Migration in Germany

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### Abstract

Immigration plays a vital role in strengthening the German labor market, especially in terms of attracting skilled workers who contribute to supporting the economy and facing the challenges of labor shortages. This research aims to analyze the legal and political mechanisms adopted by Germany to attract this category, such as laws regulating immigration, facilitating obtaining visas, and integration programs into society and the labor market. The research also addresses the most prominent challenges facing skilled immigrants, such as administrative obstacles, language requirements, and cultural adaptation. It highlights the effectiveness of German policies in achieving a balance between meeting the needs of the labor market and ensuring the successful and sustainable integration of foreign workers.

**Keywords:** Immigration, Labor Market, Germany, Legal

### Introduction:

Throughout history, humanity has been characterized by the perpetual motion of individuals. People relocate for various purposes such as employment opportunities, economic factors, familial reunification, academic goals, and fleeing from conflict, persecution, terrorism, or human rights abuses. Additionally, some individuals undertake

migration due to the impacts of climate change and other environmental factors.

The European Union countries, particularly the Federal Republic of Germany, are widely regarded as one of the most appealing immigration destinations globally, after the United States of America, boasting a foreign-born population of 18.6 million individuals. This status is not happenstance, but rather a consequence of multiple factors, most notably Germany's historical role as a pioneer in the realm of selective immigration policies. Throughout its history, Germany has adeptly leveraged immigration to address its national requirements amidst various historical challenges.

### 1. Reasons for Germany's Interest in Attracting Skilled Migration:

European Union countries, in general, and the Federal Republic of Germany, in particular, are among the most attractive destinations for migration in the world, second only to the United States. They are home to 18.6 million people of foreign origin. This is not a coincidence but the result of several considerations, most importantly the historical precedence of Germany in dealing with selective migration issues, which it has always employed to meet its national needs through various crises throughout history.

After World War II in 1945, Germany began economic migration in West Germany

in the 1950s, where migrants contributed to filling the labor shortage. The main reasons for Germany's interest in attracting skilled labor include:

- A decrease in the working-age population in Germany, where the number of vacant jobs reached a record high of 1.2 million in the last quarter of 2017 <sup>1</sup>.
- The imbalance between the output and input of the German labor market, where the output exceeds the input, and Germany is expected to be the highest in this regard among the countries of the Organization for Economic Cooperation and Development (OECD) in 2020<sup>2</sup>.
- The recognition by German policymakers that managed labor migration is a fundamental tool to meet labor requirements and achieve prosperity for Germany, as affirmed by Chancellor Angela Merkel, saying, "Migration is a natural movement, and when it is legal, it is good, and migrant labor achieves prosperity for Germany"<sup>3</sup>.
- The increasing need for specialized and skilled labor attracts more migrants with qualifications and specializations to the country, also to meet the need for a shortage of qualified labor force arising from demographic change<sup>4</sup>.
- Attracting individuals with competencies and specializations from non-EU countries, and those holding qualifications recognized in Germany, in specialized fields such as health and care, allowing them to come to Germany for work<sup>5</sup>.

## 2. Mechanisms Adopted to Attract Skilled Migration in Germany:

Germany employs various legal, political, institutional, and technical means to

attract skilled migration, considering its economy's needs to benefit from migrant labor.

### 2.1 Legal Means:

The Basic Law of Germany, along with the immigration laws, are significant mechanisms in attracting and encouraging international migrants to immigrate to Germany, as these laws provide guarantees for their rights, dignity, and equality before the law with Germans themselves.

#### A. The Basic Law for the Federal Republic of Germany:

The Basic Law of the Federal Republic of Germany is a motivating factor for skilled migration to choose Germany as a host country, through the guarantees it provides for skilled labor and humans in general, such as dignity. For instance, Article Number (01), which is about human dignity and rights and the obligation to respect and protect them, states: "Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority"<sup>6</sup>.

This article demonstrates that human dignity in Germany falls under the interventions of all state authorities, emphasizing the German people's belief in the inviolability of these rights and their necessity for coexistence in a secure society, as confirmed by the third part of the same article, stating: "Based on this, the German people believe that human rights are inviolable and must not be abandoned, forming a fundamental basis for the coexistence of humans in any society, for peace, and justice in the world".<sup>7</sup>

The Basic Law guarantees equality before the law for migrants and Germans, irrespective of origin, belief, or ideological orientations, as illustrated by Article Number (03), which is about equality before the law,

<sup>1</sup>OECD, "Germany Policy Brief", June 2018, p.02.

<sup>2</sup> Ibid.

<sup>3</sup> Merkel, Immigration... Prosperity for Germany, available at: <https://ar.qantara.de/content/>, accessed on 05/02/2020, at 14:30.

<sup>4</sup> Facts about Germany, updated version 2018, p.120, available at: <https://www.tatsachen-ueber-deutschland.de/ar/tnzyl-mlft-pdf-wlktb-llktrwny>.

<sup>5</sup> Ibid, same page.

<sup>6</sup>The Basic Law for the Federal Republic of Germany, edition of the text issued according to the latest amendment dated 28 March 2019. Berlin: German Bundestag, Public Relations Department, 2019, p.17.

<sup>7</sup> Ibid, same page.

equality between men and women, and prohibition of discrimination, stating in the first part: "No person shall be favored or disfavored because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavored because of disability"<sup>8</sup>.

#### **B. Skilled Immigration Act 2019:**

The German economy suffers from an increasing shortage of skills. On this basis, the Federal Cabinet adopted the Skilled Immigration Act (Fachkräftenwanderungsgesetz), with the aim of "creating a legislative framework for selective and increased migration of skilled workers from third countries"<sup>9</sup>. This act implements several directives of the European Union and came into effect on March 1, 2020.<sup>10</sup>

Skilled workers, as defined by this law, are university graduates and highly qualified workers from a third country outside the European Union, who can migrate to Germany or stay to look for work in their area of expertise, provided they have the required German language skills and means of subsistence. Skilled workers over 45 years old must demonstrate that they will earn at least 3,685 euros per month, approximately 4,067 US dollars, or have sufficient retirement provision.<sup>11</sup>

The Skilled Immigration Act allows this category to obtain a residence permit for six months, as well as providing those who have a stable job offer with a residence permit for four years. After its expiration, skilled workers may obtain a permanent settlement permit, provided they have contributed to the German

pension system for at least 48 months,<sup>12</sup> possess the required German language skills, and have sufficient means of subsistence.

Workers with an academic background may be granted permanent settlement permits on a case-by-case basis if they are integrated into German society, have means of subsistence, and do not burden the social security system, and are not excluded for reasons related to public safety or order<sup>13</sup>.

Furthermore, the Skilled Immigration Act of 2019 abolishes the requirement to give priority to German citizens or citizens of the European Union concerning the right to obtain employment (a condition known as "labor market priority check")<sup>14</sup>, nor is the appointment of skilled workers limited only to professions where there is a shortage of applicants.

#### **2.2 Institutional Means:**

Many institutions and formal and informal actors interact in the management of migration in Germany. These institutions, through their provision of consultations, inquiries, and information for international migrants, represent the most important mechanisms for selective migration attraction in Germany.

#### **A. The Federal Office for Migration and Refugees (BAMF): bamf.de:**

This is a federal agency under the Ministry of the Interior, offering comprehensive information related to residency in Germany. It is responsible for making decisions on asylum requests. In the field of migration and integration, the Federal Office for Migration executes integration courses, language

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<sup>8</sup> Ibid, p.18.

<sup>9</sup> Germany: New Immigration Acts to Attract and Retain Skilled Workers Published, available at: <https://www.loc.gov/law/foreign-news/article/germany-new-immigration-acts-to-attract-and-retain-skilled-workers-published/>.

<sup>10</sup> Fachkräftenwanderungsgesetz (Skilled Immigration Act), 15 August 2019, Article 54, p.1346, available at: <https://perma.cc/G3PU-9NDR>.

<sup>11</sup> Ibid, Article 01, p.1307.

<sup>12</sup> Germany: New Immigration Acts to Attract and Retain Skilled Workers Published, Op.Cit.

<sup>13</sup> Fachkräftenwanderungsgesetz, Op.Cit, Article 01, p.1307.

<sup>14</sup> Fachkräftenwanderungsgesetz, Op.Cit, Article 01, p.1307.

support, job-related services, and initial advisory services for migrants.

**B. The German Islam Conference: Deutsche-islam-konferenz.de:**

Initiated in 2006, the German Islam Conference (DIK) has been organizing a long-term dialogue between the German state and Muslims living in Germany. Its achievements include initiating a debate on the possibility of teaching Islamic religion in German schools, conducting a study on "Muslim life in Germany," and projects for teaching imams at German universities and linguistically and knowledgeably qualifying Muslim imams to broaden their understanding of German culture and history.<sup>15</sup>

**C. The National Integration Plan: bundesregierung.de:**

Germany strives for several reasons to be a nation of integration, which has been one of the most important topics of the German federal government's work since 2005. An Integration Summit is held once every year.

**D. The Federal Volunteer Service: bundesfreiwilligendienst.de:**

This body directs its offers to men and women wishing to work for the public benefit in social, environmental, cultural, or sports fields, or in the areas of integration or civil protection from disasters. Alongside the Federal Volunteer Service, Germany is enriched with civil society associations

**Table (01): Policies for Integrating International Migrants in Germany during the period 1955-2019.**

working to support migrants and facilitate and expedite their integration into German society, such as the Maurice 14 Association located in the Rölbereich area of Neukölln in Germany<sup>16</sup>.

**2.3 Political Means:**

Regarding the policies adopted for the integration of international migrants into German society, many policies and measures have accompanied the immigration regulations for a long time. However, a distinction is made between two periods: the first period from 1955-1998, during which Germany did not recognize itself as a country of immigration, starting with the recruitment of "guest workers" in 1955 and ending with their temporary employment due to the global crisis in 1973.

This phase concluded with new immigration processes following the fall of the Iron Curtain, compelling Germany after the 1998 elections to acknowledge itself as a country of immigration, marking the second period.

Subsequently, in 2005, a new integration policy was adopted, crowned by the adoption of the Skilled Immigration Act in 2019 and accompanying policies aimed at attracting skilled workers from non-EU third countries. Table (01) shows the most important policies adopted as mechanisms for attracting and integrating international migrants into German society from 1955 to 2019.

| Integration Policies Status  | German Migration History  |
|--|---|
| <ul style="list-style-type: none"> <li>- No specific integration</li> <li>- Inclusion of guest workers in the state's social security institution</li> </ul> | <ul style="list-style-type: none"> <li>- Temporary recruitment of migrants (1955-1973)</li> </ul> |

<sup>15</sup> Islam Abdullah Abdel Ghani Ghanem, "The migration of Arab youth and the problems of conscious integration: challenges and official and unofficial solutions - The European Union as a model" France,

Germany, Netherlands. Laboratory for Drug Prevention and Combat Strategies, Volume 10, Issue 01, 2017, p.237.

<sup>16</sup> Ibid, same page.

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|--|--|
| <ul style="list-style-type: none"> <li>- Debate on integration policies after the end of temporary employment of workers from Southern Europe in 1973.</li> <li>- Appointment of a Federal Commissioner for Foreigners' Affairs (Beauftragter der Bundesregierung für Ausländerfragen) in 1978 in the Ministry of Labor, predecessor of today's Federal Commissioner for Integration.</li> <li>- Support for the voluntary return of labor migration.</li> </ul>   | <ul style="list-style-type: none"> <li>- Refusal to recognize Germany as a country of immigration (1973-1998)</li> </ul> |
| <ul style="list-style-type: none"> <li>- New migration after the Iron Curtain was lifted.</li> <li>- After the 1998 elections, the change in government led to the official recognition of Germany as a country of immigration.</li> </ul>   | <ul style="list-style-type: none"> <li>- New migration and the beginning of a shift in policy model (1998)</li> </ul>    |
| <ul style="list-style-type: none"> <li>- Milestones of the new integration policy in Germany:</li> <li>- The new Citizenship Law was enacted in 2000, easing naturalization requirements and facilitating the acquisition of German citizenship for some children born in Germany to non-German parents.</li> <li>- The new Immigration Law was enacted in 2005, creating a framework for foreign workers to permanently settle in Germany.</li> <li>- Establishment of the German Islam Conference in 2006 to improve relations between the Islamic communities and the German state. <ul style="list-style-type: none"> <li>- The National Integration Plan introduced in 2007.</li> <li>- The National Action Plan introduced in 2011.</li> </ul> </li> <li>- Update to the 2005 Immigration Law in 2012, easing restrictions that limit immigration to sectors suffering from a labor shortage to allow for increased high-skilled immigration.</li> </ul> | <ul style="list-style-type: none"> <li>- New integration policy (since 2000)</li> </ul>                                  |

|   |  |
|---|--|
| <ul style="list-style-type: none"> <li>– Possibility of attracting skilled workers from non-EU third countries.</li> <li>– Skilled workers enabled to obtain permits for six months, four years, permanent settlement once they possess the German skills and are not excluded for reasons related to public safety and order.</li> <li>– Proof of sufficient living expenses in Germany, as well as contributions to the German pension system, and proof of conditions for financial gain.</li> </ul> | <ul style="list-style-type: none"> <li>– Skilled worker attraction policies 2019.</li> </ul> |
|---|--|

**Source:** Based on the researcher's compilation from:

- Friedrich Heckmann, "Understanding the Creation of Public Consensus: Migration of Integration in Germany, 2005 to 2015.
- Germany: New Immigration Acts to Attract and Retain Skilled Workers Published, Op.Cit

#### **2.4 Technical Means:**

Modern technologies and techniques play a prominent role in attracting international migration in the current era, due to the rapid spread of information they facilitate, in addition to the diversity in the categories and sizes of the target audience through them. Thus, software developers and entrepreneurs compete over time to employ modern technologies to serve migrants. Among the applications used in Germany for this purpose, we find:

##### **A) Welcome App Germany:**

Developed by two German partners, this app aims to provide information in several languages to new migrants in the country, answering basic inquiries about German culture and laws <sup>17</sup>.

##### **B) The Official Internet Portal for Foreign Qualified Professionals: make-it-in-germany.com**

This portal accompanies those wishing to migrate to Germany from before their entry

into the country until finding a job. Experts provide individual advice on visa entry, recognition of certificates and experiences, and life in Germany, via the internet, hotline, or chat (CHAT), in addition to information on vocational qualification features or studying in Germany, available in German, English, French, and Spanish<sup>18</sup>.

##### **C) The Migrant Workers' Contact Reception Center in Bonn:**

The center receives calls from skilled migrants from their countries, clarifying the work conditions in Germany. With the provision of qualifications, they are referred to the German Employment Agency. The center clarifies the work conditions and required qualifications in Germany to foreign callers in thirteen languages before they decide to leave their countries and arrive in Germany. Contact with the center is made through the link: <http://amp.dw.com> <sup>19</sup>.

### **3. Internal and External Challenges of Attracting Skilled Migration in Germany:**

It should be noted that despite the strengths Germany possesses in attracting skilled migration to serve its economy affected by aging population trends and the challenges

<sup>17</sup> International Committee of the Red Cross, "Migration: Searching for a Place Under the Sun", Humanitarian, Winter 2016, p.31.

<sup>18</sup> Facts about Germany, Op.Cit, p.76.

<sup>19</sup> Germany: A center for receiving calls from those wishing to work from all around the world, available at: <http://amp.dw.com>.

this imposes on the labor market, numerous internal and external factors intertwine, making this experience face many challenges that could become concerns for German policymakers in the future.

#### **A) Internal Factors as a Challenge to Selective Migration in Germany:**

Several factors at the internal level of the Federal Republic of Germany pose a challenge to its increasing demand for skilled competencies and workers under the new immigration law. The most important of these factors can be summarized as:

- The rise of the far-right, such as the anti-immigration Alternative for Germany (AfD) party, which won 94 seats in the German parliament by 2018, becoming the largest opposition party in Germany, as it came according to anti-immigration and refugee orientations<sup>20</sup>.
- The growth of racist discourse and hate terrorism against immigration policy, and the refusal to consider Germany a country of immigration, due to the fears harbored by the far-right and those politicians of integration policies in Germany, as they believe it would come at the expense of national and local uniqueness, and that international migrants are the source of all problems in the Federal Republic of Germany with their destructive habits and traditions.
- The increase in public spending and public consumption due to the attraction of skilled migration and the refugee welcome policy, which could cause a severe crisis in Germany amidst the aftershocks often experienced by the capitalist economy. Data indicate that the German government increased its spending since 2016, with the Ministry of Finance estimating the increase in public spending on refugees at about 18 billion euros annually (0.6% of GDP) for their reception and

integration, which reflected in the national accounts due to a strong acceleration in public consumption, recording its highest increase since 1992 immediately after reunification<sup>21</sup>.

- The existence of multiple jurisdictions among institutions responsible for integration issues, causing confusion through the dispersion of jurisdictions. The Federal Office for Migration and Refugees, under the Ministry of the Interior, is responsible for language and integration courses, while vocational training and work fall under the Ministry of Labor, and residency is under the Ministry of Foreign Affairs. Moreover, there is a Commissioner for Integration Affairs in the German government, albeit in a ceremonial position<sup>22</sup>.
- One of the obstacles to integration in Germany is the absence of a Ministry of Integration, despite some federal states within Germany having preceded in this, such as the state of Baden-Württemberg, or those states that have established special integration departments within one of the ministries, as done by the states of Lower Saxony, North Rhine-Westphalia, Hesse, and Rhineland-Palatinate<sup>23</sup>.
- The strict security treatment of migration issues and the contradiction between the objectives of the adopted policy and the media statements of some German politicians who consider migration, despite the German economy's need for foreign labor, as the root of problems in Germany.

#### **B) External Factors as a Challenge to Selective Migration in Germany:**

From an external perspective, several factors pose challenges to selective migration in Germany, which can be summarized as follows:

<sup>20</sup> European Observatory of Human Rights, "You Are Not From Here: Xenophobia and Racial Discrimination Against Refugees and Migrants in Europe", June 2018, p.03.

<sup>21</sup> European Commission, "European Migration Network", Annual Report on Migration and Asylum, May 2018, p.118.

<sup>22</sup> Islam Abdullah Abdel Ghani Ghanem, Op.Cit, p.237.

<sup>23</sup> Ibid, same page.

- The rise of the far-right and its anti-immigration and anti-Muslim rhetoric across the European continent, especially in Germany itself, as previously mentioned, as well as in France, Italy, Belgium, the Netherlands, and Austria. This will externally affect the German policy on attracting selective migration, given Germany's connection with the overall policies of the European Union.
- European and international competition in adopting similar policies to attract skilled individuals due to the aging trend in most European societies and the vacancy of jobs in the European labor market. This is evident in the similar policies adopted by European countries since the beginning of the third millennium (the Green Card in Germany 2005, the Talented Skills Card in France 2006, and the Blue Card at the European level in 2007).
- The increase in Germany's external debt due to the rising demand for skills and integration programs and courses, which could potentially lead to a debt crisis for Germany in the future.
- Concerns of third countries outside the European Union, targeted according to the new 2019 immigration law, regarding hostile rhetoric and targeting of migrants, especially from Islamic countries and sending countries in general.
- Focusing on selective migration might open the door to irregular migration as it deprives unskilled migrants of opportunities to obtain jobs that do not require high skills through migration to Germany.

#### **Conclusion:**

Germany is one of the most prominent countries that rely on immigration to strengthen the workforce and fill the shortage of skilled workers. In this research, we have reviewed the political laws adopted by the government to attract this category of immigrants, including German immigration laws, such as the Skilled Workers Immigration Act, in addition to the facilities provided in terms of visas, residence permits, and left in the labor market together.

The Germans were also keen to not only attract foreign talents, but also to create an attractive environment through simple

emergency procedures and opportunities to report professional and academic qualifications. However, there are still difficult challenges in cultural adaptation, learning the German language, and competing with the local workforce.

Therefore, it can be said that Germany's success in attracting skilled workers depends on its ability to develop more flexible and comprehensive policies that meet the needs of the labor market, while maintaining a balance between the requirements of the economy and the social integration of immigrants

This phenomenon contributed significantly to the formation of societies, as well as the integration of civilizations and cultures. Numerous contemporary nations emerged as a result of migration movements that facilitated the blending of diverse races and cultures, ultimately resulting in the establishment of a unified societal framework.

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