



Fair Migration | 08.2017

Germany needs an immigration law

Despite record immigration, relatively few skilled workers come to Germany from beyond Europe. Demographic changes mean that Germany needs skilled workers, and an immigration law would enable the country to attract them from throughout the world.

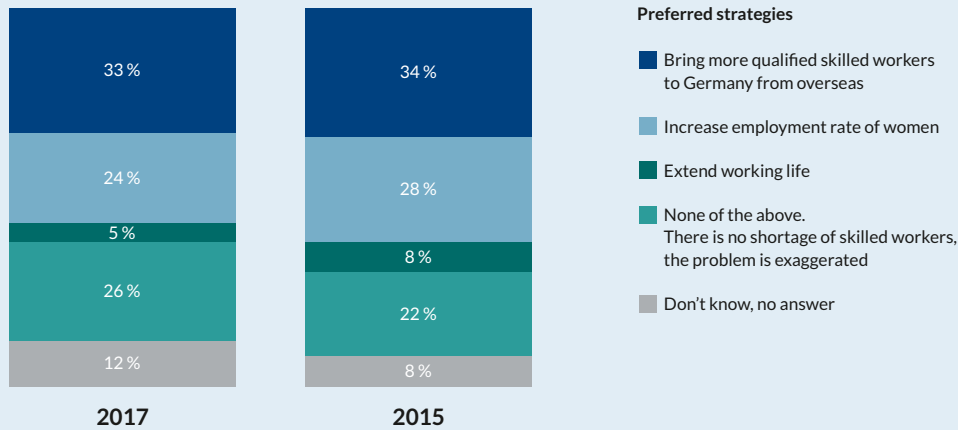
In recent years, the dynamics of migration in Germany have changed dramatically as the country is experiencing a record high in immigration. In 2015 and 2016, the number of first-time asylum applicants reached more than 1.1 million. In public and media perception, refugee migration almost entirely overshadows the debate on economic migration. The heavy influx of asylum seekers was accompanied by the rise of a right-wing populist party and growing skepticism about migration among the public.

Dr. Matthias M. Mayer

Project Manager, Integration and Education Program,
Bertelsmann Stiftung

But all of this obscures the fact that Germany remains reliant on skilled foreign workers. Once the Baby Boomer generation retires, the number of people that the labor market has at its disposal will fall dramatically within a few years. Demographically, the country is falling off a cliff, a fact that becomes vividly apparent when you compare the years of highest birth rates (1962 to 1966) – around seven million people – with those born between 2011 and 2015 – around 3.6 million. While there is no need for alarmism, Germany does need a sustainable strategy for securing the skilled workers that will help it meet the challenges of an aging society. Such a strategy would incorporate factors like longer working lives, greater investment in education and an improved balance between family and career. Migration is another key aspect – and the public also sees it this way.

FIGURE: **Strategies for overcoming the skilled labor shortage**
Once again, one in three respondents favors foreign skilled labor



Question: In an aging society, it is a challenge for companies to meet their need for skilled workers through the labor market. In your opinion, which is the best strategy for responding to this situation?

Base: 2,014 respondents

Source: Bertelsmann Stiftung. *Willkommenskultur im Stresstest*. Gütersloh 2017.

| BertelsmannStiftung

A 2017 Bertelsmann Stiftung survey on Germany's "welcoming culture" shows that most respondents actually prefer immigration to other options as a strategy for combating the skilled labor shortage (see figure). The high rate of refugee migration has done nothing to change this, as a comparison with 2015 figures demonstrates.

Germany draws relatively few skilled workers from non-EU countries

Presently, Germany profits greatly from internal EU mobility, which has brought skilled workers from crisis-hit EU countries. However, Germany cannot rely on this influx in the long term, as other EU countries are faced with their own aging societies. Refugee migration undertaken for humanitarian rather than economic reasons brings relatively few skilled workers. The results of the IAB BAMF-SOEP survey of refugees in 2016 conducted by the Institute for Employment Research (IAB), the Federal Office for Migration and Refugees (BAMF) and the Socio-Economic Panel (SOEP) at the German Institute for Economic Research (DIW Berlin) shows that 90 percent had neither oral nor written knowledge of German before they arrived, only 13 percent had a college degree and only six percent had occupational training or other professional qualifications.

Migration of skilled workers from non-EU countries to Germany accounted for less than 30,000 people

between 2011 and 2015 (see table). The 2015 figure of 28,008 represents just 2.5 percent of the overall influx from non-European countries. Here we see the effect of high rates of refugee migration; in 2013 this proportion was 6.6 percent. The most significant countries of origin for skilled workers in quantitative terms were India, the United States, China, Bosnia-Herzegovina and Serbia. But these statistics underestimate the number of skilled workers who settle in Germany from beyond Europe. In 2015, for instance, change of status added an extra 7,037 foreign skilled workers to the country. Moreover, skilled workers may also come to Germany in the course of family reunification. In 2015, 24,798 family members of foreigners arrived. We can assume that some skilled workers bring their partners who then also work in Germany. However, the statistics do not record the number of skilled workers who migrate in this way.

But when you view overall skilled worker migration from non-EU countries to Germany, it is safe to say that it is not a big enough factor to influence the economy, and it is also low by international standards.

TABLE: Skilled worker migration from non-EU countries by most frequent nationality (2011–2015)

	2011		2012		2013		2014		2015	
	absolute	in %	absolute	in %	absolute	in %	absolute	in %	absolute	in %
India	4.664	18	4.837	18	4.253	18	4.982	18	4.822	17
United States	3.231	12	3.007	11	3.144	13	3.227	12	3.310	12
China	2.947	11	2.996	11	2.779	12	3.013	11	2.607	9
Bosnia and Herzegovina	1.777	7	2.251	8	1.995	8	2.500	9	2.546	9
Serbia	1.195	5	1.263	5	1.327	6	1.665	6	2.011	7
Japan	1.772	7	1.664	6	1.609	7	1.713	6	1.713	6
Russian Federation	884	3	894	3	995	4	996	4	1.334	5
Turkey	984	4	1.297	5	1.057	4	1.223	5	1.302	5
Ukraine	417	2	460	2	513	2	795	3	946	3
South Korea	600	2	525	2	557	2	610	2	750	3
Other	7.475	29	8.155	30	5.768	24	6.378	24	6.667	24
Total	25.946	100	27.349	100	23.997	100	27.102	100	28.008	100

Source: Federal Ministry of the Interior (BMI) and Federal Office for Migration and Refugees (BAMF).
Migration Reports 2009-2015. Nuremberg 2011-2016; own calculations.

| BertelsmannStiftung

An immigration law could help Germany attract more skilled workers

Along with economic growth, a cohesive and transparent legal framework for managing economic immigration is a basic requirement for making Germany attractive to skilled workers from non-EU countries. Although German immigration laws are considered liberal, even by international standards, incremental ad-hoc legislation of recent years has rendered them highly complex and opaque. Presently there are over 40 modes of immigration for economic reasons, which are linked to 30 different criteria (age, language skills, living conditions, means of subsistence, minimum wage, planned professional activities, qualifications, school education, country of origin, etc.). This is impossible to communicate either to skilled workers who may be interested in immigration, or to domestic companies and local authorities – hardly the stuff of effective and transparent immigration management. And that is why Germany needs an immigration law that reconfigures, simplifies and enables entry options for skilled workers, in order to attract the skilled labor from which our country profits.

In any case, we should be realistic when assessing the possibilities and limitations of an immigration law. Germany's appeal to international skilled workers is determined in conjunction with other factors, some of which are difficult or impossible to control through government, or cannot be linked directly to immigration policy. Other factors that determine the country's attractiveness include the prevalence of German as a foreign language, incidental wage costs, wage levels, tax contributions, cultural affinity, the image of the country, even the weather and climate. However, an immigration law that guarantees prudent legislative control of migration should be a basic component of the country's overall attractiveness.

There must also be a clear and systematic distinction between an immigration law and the right to asylum. This is because immigration of those seeking sanctuary pursues a humanitarian logic which is anchored in the country's Basic Law and the Geneva Refugee Convention. Economic migration, on the other hand, is primarily aligned with the economic, demographic and social self-interest of the receiving country.

For more precise configuration of immigration laws, the most meaningful approach may well be to reconfigure the existing law with the EU “Blue Card” as a central pillar and develop it further within the existing structure. A systemic transformation to a points-based immigration management doesn’t seem a viable option at present. On the one hand, we are seeing international point-based management systems moving in the direction of labor market-based systems. Meanwhile, labor market-based systems like Germany’s have begun warming up to qualification-based migration. Moreover, the discussion drafts and proposed legislation on point systems presented to date have not been convincing, as they would further complicate migration management and could even lead to new restrictions on labor migration. This would introduce the risk of Germany falling short of its goal of attracting the right foreign skilled workers in sufficient numbers.

The labor market and its requirements must be the central reference point for migration management. Having migrants successfully integrated and participating in the labor market creates fairness and threefold benefits. The receiving country benefits because it attracts the skilled workers it needs, gains tax revenues, stabilizes its social security system and acquires cultural enrichment. Migrants benefit because they can fulfill their potential, achieve social ascendancy, improve living standards for themselves and their families and expand their personal skills and networks. But the country of origin also benefits from outward labor migration – specifically through secondary effects such as remittances as well as the transfer of knowledge, social resources and sometimes also investment. If necessary, the danger of brain drain can be forestalled through pro-active measures, such as those establishing special rules for certain professions and particularly at-risk countries.

Given the current situation, Germany should not be targeting systemic change, rather it should continue developing its labor market-based management system, further expanding qualification-based immigration options and becoming more “hybrid” in nature.

Any immigration law that satisfies these requirements must be **transparent** and **effective**, create **attractive** conditions for immigration to Germany, guarantee the integration of immigrants and be administratively **efficient**. Moreover, it should be **flexible** enough to enable rapid response to changing framework conditions, such as high rates of

refugee migration. Finally, there should be parliamentary debate on target ranges to increase **acceptance** for immigration among the domestic population.

**Transparency and comprehensibility:
Summarizing and reconfiguring residency options, and giving them a distinctive label (“Black-Red-Gold Card”)**

The present system can be simplified by reconfiguring immigration pathways into a few key streams and giving them a distinctive label. This would mean summarizing the existing options down to a manageable few, and selectively adding to them (e.g., with respect to immigration pathways for non-academics and residency options for job hunting). This would send a signal both domestically and internationally, one that pairs the necessary regulatory rigor required of administrators with a pronounced commitment to immigration. However, transparency is a must here, to ensure that a minimum of immigration pathways are defined, all clearly distinct from one another. Although the country’s scope for action is restricted by the provisions of European law, politicians must use what freedom they have at their disposal. This would mean, if possible, transferring all job-related immigration options – that is, par. 18 (Qualified Employment), par. 19 (Settlement Permit for Highly Qualified Workers), par. 20 (Research) of the Residence Act – to the EU Blue Card. This label could be called something like the “Black-Red-Gold Card” (BRG Card). A new immigration law could then feature the following pillars:

“BRG Card Employment/Blue Card EU”
“BRG Card Job Search”
“BRG Card Entrepreneur”
“BRG Card Education” (for students and trainees)
“BRG Family Reunion”

Effectiveness: create more entry options for non-academic skilled workers and expand residency permits for job-seekers

An effective immigration law enables the country to bring in precisely the skilled workers that it needs. In the area of non-academic qualifications

there is a current need for skilled workers with vocational training – a need which is only likely to grow in the future. However, the present immigration options are largely tailored to academic skilled workers. The status of non-academic qualifications should be enhanced within the logic of German immigration. A fitting approach would be to give equal weight to skilled workers with and without college degrees – perhaps in the form of the “BRG Card Employment/Blue Card EU” outlined above. This could do away with the “positive list” of under-subscribed professions for which immigration is permitted which the Bundesagentur für Arbeit (BA; Federal Labor Office) maintains. These measures would liberalize entry options for non-academic skilled workers and, at the same time, simplify German migration law.

Presently, non-academic skilled workers who wish to migrate must establish the equivalency of their professional qualifications ahead of time. The recognition of professional qualifications from other countries is, however, a difficult hurdle for skilled workers without college degrees and creates a bottleneck for skilled worker migration below college-degree level. In 2015, the Labor Office found just 658 cases where consent was granted for the hiring of non-academic skilled workers as defined by par. 6(2) sentence 1 no. 2 of Germany’s Employment Regulations (Positive List), with 1,104 rejections. And in the same year, there were only 2,263 cases under par. 6(2) sentence 1 no. 1 of the Employment Regulations (Placement Agreements), with 94 rejections. There is an obvious need to engage with alternative means of validating formal professional qualifications. But with few countries having anything like Germany’s formalized training system, there should be greater consideration given to non-formal and informally acquired skills.

There are two approaches that could enhance Germany’s potential gains from immigrants with professional qualifications. One would be to expand the Recognition Act to explicitly recognize non-formal and informal learning. This is currently occurring in individual cases through “qualification analyses.” Another approach would, in the absence of full equivalency, allow for recognition of standardized partial qualifications to be linked to post-qualification measures leading to full recognition. This would mean that immigration might even be possible in the event of partial recognition. Such a system for recognition of partial qualifications should also be open to local residents with low formal qualifications. At the same time,

the recognition procedure must be streamlined and linked to a nationwide consultancy structure.

The option of entry for job-seekers is an important complement to migration pathways that require firm job offers. Par. 18c of the Residence Act presently permits academic skilled workers to spend six months looking for a position in Germany – as long as they can support themselves. This search permit should be expanded to cover immigration of non-academic skilled workers, that is, those who have completed recognized (or partially recognized) professional qualifications. There should be an option of spending twelve months looking for a position in Germany (while also, perhaps, attending courses to improve language skills). Moreover, it should be possible to work during this search phase, as par. 16(4) of the Residence Act currently permits graduates of German colleges.

Even if the German labor market is not presently in need of immigrants with low-level qualifications, we still need debate around immigration options for low-skilled workers. The main reason is the increased blurring between refugee and migrant streams. This is because many migrants attempt to gain residency in target countries by applying for asylum. This places an additional burden on the asylum system. There is increasing overlap between refugees and migrants in their motivations and pathways, which makes it more difficult to protect refugees and develop a sustainable migration policy. Transparent entry options for economic migrants could help here. This means that those pursuing migration for primarily economic reasons would be directed to the channels for economic migration to prevent them making (fruitless) applications for asylum for lack of alternatives. This is also the logic that the parliamentary faction of the German Social Democratic Party (SPD) applies in its proposal for an immigration law.

The greatest potential for disentanglement, however, is in the area of low-skilled workers. This is why, beginning November 1, 2015, Germany’s federal government made it possible for nationals of western Balkan countries to take up employment (provided the immigrant has a firm offer and the Labor Office has granted its consent), in line with par. 6(2) sentence 1 no. 1 of the Employment Regulations. A professional qualification is not required.

Admittedly, the immigration of low-skilled workers is a controversial issue and critics fear a displacement effect with local employees as well

as increased resentment of immigrants. Even if there are valid reasons for only allowing immigration of low-skilled workers in a few, exceptional cases at the moment, there must at least be discussion around the extent to which this category of people should be selectively permitted to immigrate – to ease the burden on the asylum system in times of high refugee influx, for example. Here it is important to carefully evaluate the western Balkan regulation, including any displacement effect it may have on local employees.

Attractiveness: Enabling quicker permanent residency, simpler naturalization and dual nationality

An attractive immigration law is one that offers clear prospects for permanent residency and participation. And the possibility of fast-track naturalization is one important aspect. It helps make the country more attractive to the migrant, who in turn is more motivated to contribute to the new society. Presently applicants must be resident for a minimum of eight years before naturalization becomes an option (par. 10(1) of the Nationality Act); seven years if they have attended an integration course, or six if the relevant body decides on its own authority that the applicant is particularly well integrated. This minimum residency requirement should be shortened to four years in line with the Canadian model.

Regulations that permit dual citizenship are also attractive. Here, too, Germany should orient itself toward the liberal arrangements of classic immigrant societies. Rather than further restricting the present options for dual citizenship, they should be expanded, to improve integration and increase participation of migrants.

Efficiency: Create a Federal Ministry for Migration, Refugees and Integration as well as more effective administrative authorities

Migration, asylum and integration policy must be administered by a dedicated, powerful department at the federal level. The political responsibility for migration is currently widely distributed at the federal level. In view of the increased significance of issues around migration and refugees, as well as the complexity of a pro-active migration approach, it makes sense to follow the example of established immigrant countries such as Australia and Canada, and as far as possible consolidate political responsibility for migration into a dedicated department.

An immigration ministry with the relevant responsibility for legislation as well as the necessary funding and staffing could ensure that the legal situation is better implemented and necessary reforms driven forward more effectively. To ensure that it wields influence commensurate with the significance of the issue, it is important that a migration ministry be empowered to carry out sovereign tasks, such as issuing residency permits, bestowing citizenship, carrying out asylum procedures through the Federal Office for Migration and Refugees, as well as the integration of migrants. As a guideline, departmental responsibilities could include the migration cycle from preparation in the country of origin right up to citizenship, or repatriation or onward migration.

Administrators must implement legal immigration regulations in the most efficient and uniform way possible. To date complex immigration regulations have made it more difficult for administrators to carry out effective implementation, leading to considerable deficits, such as delays and associated additional costs. Even bold reforms risk running out of steam and failing to reach their target groups if administrators can't effectively implement them. Depending on the case in question, up to three different authorities may be involved in issuing a residency permit – the Foreigners Registration Office, diplomatic missions and the Labor Office. This means that approximately 565 municipal foreigner registration offices, some 270 visa centers in diplomatic missions, and the Labor Office, with its six locations, have the authority to decide on various categories of economic migration. However, these authorities are understaffed, which in the case of the foreigner registration offices is caused by the strained finances of the local authorities. This results in an overloaded system.

A more efficient approach would be to have one central approving authority (at state or federal level), which could replace verification through diplomatic missions or foreigner registration offices. To finance such an authority, processing fees for issuance of residency permits for economic migrants – currently low by international standards – could be increased. Other funding sources could include the penalties imposed by customs and other federal authorities; that is, employment of visitors on Schengen visas and “over-stayers” (those who remain in Germany after expiry of their tourist visas) from visa-exempt countries could be more rigorously penalized than it is presently.

In addition, clearer legislative provision for the participation and approval of the Labor Office would increase its administrative power. This would include clearer rulings on probationary permits, that is, automatic approval following expiry of a given period. The important thing is that criteria for the participation and approval of the Labor Office create an appropriate balance between the protection of local employees and job-seekers on the one hand, and the interests of employers and economic migrants on the other.

Legitimacy and flexibility: Allow parliamentary debate on target ranges

Promoting support and acceptance among the population is a necessary pre-condition for a successful migration policy. Immigration should receive greater legitimation through parliamentary debate. In this context, an immigration law should allow for an annual plan or an immigration strategy with quantitative target ranges for economic immigration of citizens from non-EU countries to be presented to parliament each year, ideally taking into consideration all forms of immigration – including internal EU mobility. In addition, this would enable a flexible response to changing framework conditions. The Canadian “Levels Plan” or the Australian “Migration Programme planning levels” could serve as models.

To assist politicians in formulating target ranges, they could consult an advisory committee to be made up of representatives of relevant social groups, including social partners and migrant organizations, and supported by an academic advisory board.

Further literature:

Bertelsmann Stiftung (ed.)

*Faire Fachkräftezuwanderung nach Deutschland:
Grundlagen und Handlungsbedarf im Kontext eines
Einwanderungsgesetzes.* Gütersloh 2017.



Imprint

© August 2017
Bertelsmann Stiftung, Gütersloh

Bertelsmann Stiftung
Carl-Bertelsmann-Straße 256
33311 Gütersloh
www.bertelsmann-stiftung.de

Author:
Dr. Matthias M. Mayer
Project Manager
Program Integration and Education
Contact: matthias.mayer@bertelsmann-stiftung.de
bertelsmann-stiftung.de
Telephone: +49 5241 8181564

Translation:
Barbara Serfozo

Design:
werkzwei Detmold

Photo:
Getty Images/Gen Sadakane/EyeEm