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Migration Policies in Germany Five Years After Reunification

By Friedrich Heckmann

The year 1989 saw a revolution in Europe; one of its results was the reunification of Germany. A few weeks ago we celebrated the fifth anniversary of this event.

Revolutionary times are those of enormous social and spatial mobility; as a matter of fact, the emigration of East Germans through a hole in the Iron Curtain in Hungary was a major factor in bringing down the East German regime.

For several years after 1989 we had figures of well above a million immigrants, with 1.6 million in 1990 as the pinnacle. These figures, by the way, are above the numbers of immigrants to the United States in the same period. Two years after reunification, migration and violence against foreigners were in the center of public interest and attention; in 1993 it almost seemed that there were hardly any other topics in German politics than migration, asylum and xenophobia.

By now, the situation is quite different; in opposition to the United States topics of migration and asylum are not in the center of politics anymore, though still occupying a prominent place. German unity has become a normality, and the discussion on migration issues is proceeding in a much more "normal" way than before. Also, violence against migrants has gone down substantially. The so-called asylum compromise between the two major political parties in 1993 and the ensuing change in the constitutional asylum law was essential for bringing about this change.

All of this does not mean, of course, that immigration has come to a standstill. Immigration continues on a high level with the following major groups:

- *Aussiedler*, that is, ethnic Germans from Eastern Europe;
- migrants from European Union countries who now have the right to settle anywhere in the EU they wish to;
- asylum seekers and refugees — since the asylum compromise there are still about 10,000 asylum seekers a month;
- labor migrants entering the country under new programs of "guest worker" recruitment, mainly from Eastern Europe;
- illegal migrants.

Asylum Policies

Despite a certain calming down of the whole question of asylum, asylum policies remain a major issue within migration policies. There had been more than 430,000 asylum seekers in 1992 which led to the asylum reform of 1993 which addressed: (1) a *speeding up* of asylum procedures; (2) a "*safe country of origin*" regulation with a list of countries from which one could not ask for asylum; and (3) a "*safe third country*" list so that people coming through those countries to ask for asylum in Germany would be rejected because they could already have asked for asylum in those third countries.

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It was the speeding up of procedures (including a so-called "airport regulation") and the safe country of origin regulation that helped bring down asylum figures.

The safe third country regulation, however, seems to be ineffective. Since asylum migration is a well-organized international affair, the news about this new regulation has been spread quickly and asylum seekers are being instructed by smuggler organizations to tell that they do not know how they got into the Federal Republic. "I got into a container in Moscow and when I got out of it I was in Germany" — this is a standard answer. The authorities find it impossible in most cases to trace an asylum seeker's travel route, not to mention the problem of convincing a neighboring country to take back an asylum seeker if the travel route is uncovered.

Asylum reform has been supported by important additional measures:

- Deportation procedures have been enforced for asylum seekers whose cases have been rejected — previously, many could stay despite a denial of political asylum.
- Repatriation agreements with a number of countries were signed to ensure that countries take back their citizens. An example of such a treaty

would be the repatriation treaty with Vietnam (January 1995) by which that country has agreed to take back some 40,000 Vietnamese citizens who are partly former German Democratic Republic contract workers and partly illegal immigrants. As compensation Germany will resume development aid to Vietnam which had been frozen to facilitate discussion with that government over taking back the migrants.

- Border controls have been strengthened by way of technical measures, as well as an increase in border personnel, and cooperation with such neighboring countries as the Czech Republic and Poland.

Human rights organizations and churches have been quite critical of asylum reform, particularly regarding the speeding up of procedures and the deportation practices. Currently, the asylum law is before the federal constitutional court and, following the court's decision, the public discussion about asylum could gain momentum again.

Citizenship and Naturalization

The confused and confusing debate on whether Germany is an immigration country or not, and on what this statement could mean, still goes on. But it is agreed on all sides of the debate that the majority of foreign migrants who are now in Germany will not return to their home countries but will remain in Germany. This leads to the question of the legal status and rights of the migrants, and to the question of their access to citizenship.

There are two major conflicting issues: first, the relation of *jus sanguinis* (citizenship by descent) to *jus soli* (citizenship by reason of birthplace), and second, the acceptance or rejection of dual citizenship.

The German understanding of citizenship is traditionally and exclusively based on *jus sanguinis*, resulting in a difficulty of access to citizenship for people of non-German descent. A process is still going on, however, in which elements of the principle of *jus soli* have been or will be introduced into citizenship laws.

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As to the acceptance of double citizenship, the government's position so far has been to flatly deny it. There are forces within the ruling coalition (the Free Democratic Party), however, which seem ready to change this position and accept dual citizenship under certain circumstances — it would help the integration of migrants and solve the problem of the state having a large segment of its population without citizenship rights. Of course, the FDR has in mind another problem

as well: its lack of profile within the governing coalition. The issue could be used to distinguish the party from its Christian-Democratic partner. [The European Forum for Migration Studies has produced a position paper on the dual citizenship issue which is circulating now among the political actors and within the political public. EFMS argues that the country stick to single citizenship but allow for dual citizenship for a transition period and for limited groups of immigrants.] There are indications that positions of all the major parties are approaching one another on the issue and that they want it resolved soon.

Unresolved Problems

There is quite a hard strain on Germany's social structure because many processes of integration have to be tackled at the same time: *Aussiedler*, *Übersiedler* (residents of the former East Germany), asylum seekers, labor migrants and their kin, plus refugees. In a total population of almost 80 million there are more than 7 million foreign migrants; if you count the *Aussiedler* as well you come to a figure of 10 million immigrants. Looking at reunification as a process of migration — not as a migration of people but a migration of structures and institutions which have separated people from their former environment and made them quite ignorant of their new environment — it can be seen as creating problems and challenges of integration similar to other migratory movements.

Let me mention four of the important unresolved problems and conflict-ridden issues. The first two are "real problems" and the third and fourth are also real but on more of a conceptual level:

1. There is an increase in "imported" ethnic conflict. The violent Kurdish/Turkish conflict is the most striking case currently.
2. Jobs and firms are being eliminated, particularly in the construction industry, by a new type of cheap labor migration *within the European Union*. This is accomplished through sub-contracting under regulations of the European Union, with wage dumping and early capitalism-like working conditions. This conflict has a severe potential for causing ethnic strife with the mobilization of social tensions and anti-European Union feelings as well.
3. The issue of multiculturalism: most intellectuals are still in love with this concept, however confusing and multidimensional the idea may be. A clarification is not in sight. [Editor's Note: For Professor Heckmann on multiculturalism, see his "Multiculturalism Defined Seven Ways," *The Social Contract*, Vol. III, No. 4, pp. 245-6.]
4. The issue as to whether or not an immigration law is needed: this debate touches on the self identity of the country. Is Germany a country of immigration or not? Shall new institutions and structures be created to approach immigration in a well-organized, systematic and holistic way, or

shall the present style of a piece-meal, fragmented approach that has been the rule for 35 years be continued?

A Final Word

What we see in Germany we see in other countries as well: moves to make it difficult to enter the country while at the same time strengthening the efforts to integrate migrants already in place. How successful these efforts will be depends not only on the European governments but on the decisions of the migrants who have, in democratic societies, quite some room for self-determination in both the areas of immigration and integration. ■

[Copies of the EFMS study (in German) on dual citizenship mentioned in this paper may be obtained by writing to the European Forum for Migration Studies, Katharinenstrasse 1, D-96052 Bamberg, GERMANY.]