

**MIGRATION PATHWAYS**

**A HISTORIC, DEMOGRAPHIC AND POLICY REVIEW OF  
FOUR EUROPEAN COUNTRIES**

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# Chapter 1: Introduction

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## 1. Approaches to the study of migration

The increase of immigration flows towards European Union (EU) countries during the past decade and the social, economic and political issues related to it have attracted the interest of scholars from various disciplines. Economists have promptly investigated the economic aspects of the phenomenon, the ‘push’ and ‘pull’ factors influencing transnational migration, and, in particular, its impact on the labour market and welfare system of the host society (Borjas, 1994; Djajic, 1987; Ethier, 1986; Friedberg and Hunt, 1995; Venturini, 1993). Political and social theorists have discussed the challenge that migration poses to the socio-political order of the nation-state and the functioning of democracy within it (Bauboeck, 1994; Brubaker, 1989; Cesarani and Fulbrook, 1996; Dahrendorf, 1994; Hammar, 1990; Soysal, 1994). New conceptual tools, e.g. denizenship (Hammar, 1989; 1990), have been created in the effort to make sense of the new situation. Sociologists have studied the development of xenophobic and racist attitudes as a reaction to the increasing influx of immigrants to many EU countries (Balbo and Manconi, 1990; 1992; Baumgartl and Favell, 1995). Last but not least, the measures taken by individual states to deal with the problem have been analysed critically (Cornelius *et al.*, 1994; Gould and Findley, 1994; Wrench and Solomos, 1993) and attention has been drawn to the European dimension of the problem (Collinson, 1993; Philip Butt, 1994).

In spite of this growing academic concern and the (presumed) political will of national governments to deal with the issue, illegal immigrants keep defying control measures and border patrols while the integration of legal and/or ‘regularised’ immigrants seems hard to achieve. The inefficiency of immigration policy in many European countries is, to a certain extent, attributed to the international nature of the phenomenon and the complex and multi-faceted ‘push’ and ‘pull’ factors involved in it. Poverty, unemployment and political instability are some of the ‘push’ factors identified. However, ‘pull’ factors are also important. In particular, attention is paid to the role of the informal labour market (Loayza, 1994) in providing work opportunities for illegal aliens, especially in southern European countries (Lianos *et al.*, 1996).

Nonetheless, it is worth noting that immigration policy performance varies widely across states. As Freeman (1994) argues, ‘this variety alerts us to steer clear of facile claims that the democracies cannot cope with migration pressures and invites a serious attempt to identify factors that account for greater or lesser capacities of individual states’. Serious attempts to fill this research gap have not yet been made, specifically at the European level. Yet, there is no doubt that implementation is among the most important factors. As a matter of fact, the UN review of instruments for fighting undocumented immigration is mostly concerned with the implementation level (United Nations, 1998: 213-229). Furthermore, a recent comparative study of migration control in Germany and the United States (Hailbronner *et al.*, 1997: 203-224) has identified a number of aspects including

- (a) the general laws and attitudes towards immigration and integration;
- (b) the degree of reliance on internal versus external controls (border control, work and residence monitoring); and
- (c) the assignation of responsibilities to different authorities and the co-operation practices between authorities (federal versus state, mono- versus multipurpose agencies, information practices).

Only in very recent years have researchers begun to investigate the relationship between the administrative practices of immigration control agencies, and the strategies adopted by immigrants. Pioneering ethnographic studies of Polish immigrants in Germany (Cyrus, 1997; 1998) and of the strategic thinking and cultural practices of Brazilians in London and Berlin (Jordan and Vogel, 1997) are now being developed into analyses of the interactions between these and their counterparts in the national enforcement agencies (Jordan and Düvell, 1997; 1998). At the same time, comparative studies of immigration policy are recognising a trade-off between the several objectives of immigration control, and how varying practices reflect this (Vogel, 1998a; 1998b). This collective work represents the first step of a project that aims to carry forward the research on implementation practices of immigration policy, continuing the work begun in the UK, Germany and Poland, by some of the partners of this consortium, and combining it with pioneering studies of policy responses in southern Europe (Triandafyllidou, 1998). Thus, our aim is to contribute not only to scholarly research but also, to the extent possible, to the policy debate, by elucidating the role of differing informal administrative practices in immigration control and enforcement across the European Union.

## **2. A new field of research**

Hitherto, the main aim of research in Europe has been to study the most important factors influencing migration flows, and hence determine the broad success or failure of government policies for control. But the actual outcomes of control and enforcement measures are sometimes almost as much influenced by interactions within the immigration services, or between them and other agencies, both statutory and non-governmental. For example, in the UK the number of asylum seekers present in the mid-1990s was more a result of the failure to process appeals against refusal of refugee status, than a result of each year's new applications. This project aims to investigate the impact of the organisational structure and culture of these institutions and the identity processes related to immigration, on the actual implementation of specific policies, and relationships between agencies.

In fact, legal policy provisions are mediated by less formal, administrative, procedures structuring a bureaucratic organisation and guiding public officials in the accomplishment of their tasks. The particular nature of such practices influences the implementation of a policy measure and determines, at least to a certain extent, its outcome. It is hypothesised that such practices are to a large extent conditioned by the organisational culture prevailing within an institution. It is also expected that identity processes involved in the interaction between public officials and immigrants may influence these informal practices. More specifically, it is hypothesised that the national self-understanding of the public officials will determine the ways in which they perceive immigrants and their attitudes and behaviour towards them.

This first collective report offers a panoramic view of the phenomenon of immigration in the four member states studied: Germany, Greece, Italy and the United Kingdom. Having collected and analysed both primary (policy documents, legal texts, administrative circulars, interviews and notes of the researchers) and secondary (bibliographical sources, grey literature, newspaper material) data, the national research teams offer here a first, comprehensive report of the immigration situation in their individual countries. The history of post-war immigration to each country, the recent flows, concentrating on the last two decades, and the main demographic and socio-economic features of the immigrant population are presented. Moreover, attention is paid to the territorial distribution of immigrants in the different host countries and their integration, through regular or illegal employment, into the labour market. National immigration policies are reviewed critically and particular attention is paid to their distorted implementation and/or effects, especially as regards the regulation of immigrant residence and labour. More specifically, in line with our research focus, the main public bodies, authorities and social services involved in immigration policy development and implementation are presented and the different types of procedures and rules that govern immigrant residence and work are analysed. In light of this analysis, the particularities of national policies, the administrative structure and organisational culture(s) of each country are highlighted with a view to informing the comparative framework of the research. Also, recent literature on immigration in the countries examined is reviewed.

The aim of this report is twofold. On the one hand, we have sought to present a concise picture of the immigration situation in each of the countries studied thus providing the background knowledge, necessary to our involvement in this project, but also useful to researchers and students of immigration in various European countries and/or the European Union as a whole. On the other hand, these reports already explore the new area of research which our project will further develop. Thus, here, we also present original material on the administrative structure and culture of immigration authorities in each country, highlighting the modes (horizontal, vertical, formal and informal) and levels (national, regional, local) of co-ordination and co-operation among them. Moreover, an initial assessment of the outcomes of the most recent developments in immigration policy in Germany, Greece, Italy and the UK is given.

The report is divided into six chapters. Chapter two presents the German case, concentrating on the main features of German immigration policy as well as the legal framework and organisational structure that lies behind it. Attention is paid to the different offices involved and their particular competencies as well as to the co-operation between them. The report also reviews the post-war migration flows towards Germany and their classification into different categories by the German state. The main demographic and socio-economic features of immigrants currently present in the country are presented. In conclusion, a brief overview of the main currents in immigration research in Germany is provided.

The third chapter concentrates on Greece. The report starts with a historical overview of migration flows in Greece with special reference to the recent flows from the 1970s onwards, also highlighting related studies in the fields of sociology, anthropology, economic geography and political science. Emphasis is put on the transformation of Greece from an emigration to an immigration country and on the role of global migration networks as well as economic re-structuring both in the countries of origin and in Greece. The demographic profile of the registered immigrant population is presented in the

subsequent section, including the territorial distribution of immigrants. The problem of obtaining data and using estimates for undocumented migration (a large portion of the total immigration in Greece) is highlighted. Despite existing difficulties, the report provides a concise and comprehensive overview of the main features of the immigrant population in Greece, the policy framework, the main authorities involved in policy implementation and their field of competence.

The fourth part of the report refers to the Italian case. After briefly presenting the main parameters of the phenomenon and its national and international context, the authors concentrate on the Italian immigration policy framework and its development during the past 15 years. The main characteristics of the immigrant population in Italy are presented in the following section, including demographic and socio-economic data concerning the size of the population, the countries of origin, the territorial distribution of immigrants, and the sectors of immigrant regular and irregular employment. Emphasis is put on the distorted relationship between immigration and the informal economy in Italy, a feature that is identified also in the Greek case and to a lesser extent in Germany. The report reviews also the administrative structure and main procedures regulating immigrant residence and labour in Italy, identifying the public bodies and social services involved as well as communication and co-operation links between them. The particularities of the Italian case are highlighted at the end of the report and existing literature on immigration in Italy is discussed critically.

Chapter five examines the British case. The relationship between immigration policy, national identity and enforcement practices is highlighted in the first section of the report so as to point to the specificity of the UK as a host country. The second section concentrates on the ethnic minority population and its history, the size of undocumented migration and overall the main features of immigration in the 1990s. The policy framework including social provisions and related asylum regulations is also presented in this section. Attention is paid to the work restrictions for some categories of immigrants and asylum-seekers and also to the settlement policy adopted by the UK government. The organisational structure of immigration authorities and enforcement agencies is reviewed in the following section. In reviewing this latter, the authors discuss critically the relationship between nationality and immigration policy, the anti-racist legislation and the state of civil liberties in the UK. The report concludes with a brief overview of the literature on immigration control implementation and a summary of the particularities of the British case.

In the concluding chapter, we discuss the comparative framework of the research in light of the particularities identified by these first country reports. We thus seek to enrich our theoretical insights with empirical data and, hence, further refine our axes of comparison, also highlighting their relevance for other European countries.



## **Chapter 2: Immigration as a Side Effect of Other Policies. Principles and Consequences of the German Non-immigration Policy**

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### **1. Introduction**

Immigration issues are a recurrent feature of the public discourse in the Federal Republic of Germany. The most recent example being the debate on recruitment and employment of foreign computer experts. Responding to a demand raised by the information technology industry, Chancellor Schröder announced the introduction of a 'Green Card' for foreign computer specialists. The public reaction highlights once again the general treatment of immigration issues in Germany: the recruitment of foreign experts is handled as a necessary evil that should not lead to permanent immigration. Thus the new regulation grants 10,000 work permits only for the particular group of IT-professionals and limits the permits to a period of five years.

The recent discussion illustrates again that Germany is still not ready to consider immigration as an integral aspect of contemporary affairs that has to be accepted. This is remarkable taking into account that experts such as Klaus Bade estimate that until 1990 about 30% of the population were born outside the territory of the (old) Federal Republic of Germany thus making Germany the country with the highest share of immigrant population in the second half of the twentieth century (Bade, 1992a: 16). This estimate includes Germans from former German territories and Eastern Europe, but also foreign nationals. The foreign national population increased from less than 700,000 in 1960 to 7.3 million in the united Germany in 1998, including more than 1.5 million foreign nationals born in Germany. But to this day the German government refuses to speak of a situation of immigration:

'According to her self-perception, the long lasting or permanent sojourn of aliens did not turn the Federal Republic of Germany into a country of immigration. For a characterisation of a country of immigration it is not decisive whether aliens stay in a country for longer or permanently - which is the case in nearly every country - but whether the state needs immigration because of its demands and economic development and declares this as such. This is undeniably not the case for the Federal Republic of Germany, one of the most densely settled and most developed countries in the world' (Bundesministerium des Innern, 1997: 59 [translation by the author N.C.] ).<sup>1</sup>

Immigration is not the consequence of a conscious immigration policy but the side effect of other policies, especially compensation of post-war refugees of German ancestry,

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<sup>1</sup> 'Durch den langwährenden oder dauernden Aufenthalt von Ausländern ist die Bundesrepublik nach ihrem Selbstverständnis nicht zu einem Einwanderungsland geworden. Für die Kennzeichnung als Einwanderungsland ist nicht maßgeblich, ob sich - wie in nahezu sämtlichen Staaten - Ausländer lange Zeit oder auf Dauer aufhalten, sondern ob ein Staat wegen seiner Erschließung und wirtschaftlichen Entwicklung der Einwanderung bedarf und dieses auch erklärt. Das ist für die Bundesrepublik Deutschland, die eines der am dichtesten besiedelten und wirtschaftlich am weitesten entwickelten Länder der Welt ist, unbestreitbar nicht der Fall' (BMI, 1997: 59).

protection of asylum seekers, protection of the family, European integration and the recruitment of foreign workers (Vogel, 2000a). Such categorisations support the self-perception of the German government that Germany is not a country of immigration. However, German policy hesitatingly had to accept the fact that at least the resident foreign population resulting from the recruitment of 'guest workers' in the 1960s had gained rights, which are comparable to immigrant rights in other countries.

The policy goals of federal migration policies have not changed considerably since 1982 when they were first formulated by the Federal Ministry of the Interior as the leading office. In spite of a change of government in 1998, which included the immigration-friendly Green party in the government coalition, the main policy goals are still applicable (BMI, 1997: 59):

- The integration of legally admitted foreigners, in particular the recruited foreign guest workers and their families
- The limitation of a further inflow of foreigners from non-EU member states and countries not belonging to the European Economic Area
- The fight against illegal employment and residence

Thus the policy goals which were emphasised officially are twofold: the consistent prevention and limitation of the permanent immigration (*Zuzug*) of foreigners on the one hand and the policy of promoting the integration of those foreign residents who held an undeniable right to unlimited residence. The German government stresses that the integration of the lawfully present foreign population depends on the limitation of further immigration: 'Integration is only possible with a consistent limitation of further immigration from countries outside the European Union and the European Economic Area' (Bundesministerium des Innern, 1997: 7 [translation by the author N.C.]).<sup>2</sup> In the political discourse, images of a territory overcrowded with foreigners or a boat overloaded with people are common illustrations of this position.

However, the influx of temporary and permanent labour has never been stopped completely. There have always been exceptions for highly skilled personnel, people with country-specific skills and citizens of other industrial states outside the EU who apply for jobs which cannot be filled in the German market, but it requires a certain amount of determination by the employee and employer to cope with the bureaucratic requirements. When seasonal work and contract work for people from neighbouring countries in the East was facilitated in the 1990s, it was still framed rather as development aid although it undoubtedly also corresponded to labour market demands, especially in agriculture and construction. With the debate on 'Green Cards' for foreign computer experts, labour demand appeared on the political agenda, for the first time since the halt to recruitment in 1973, as a legitimate reason for migration.

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<sup>2</sup> 'Integration ist nur möglich, wenn der weitere Zuzug aus Staaten außerhalb der Europäischen Union und der Europäischen Wirtschaftsraums konsequent begrenzt wird' (BMI, 1997: 7).

## 2. Basic features of immigration policy

This chapter gives a brief overview of post-war immigration policy in Germany, followed by a more detailed description of the current legal framework.

For the purpose of this report, we define immigration as the inflow of new residents across international borders into Germany. However, it should be noted that immigration is framed differently in the political discussions of different states and recorded differently in statistics (see also (4.1)). The German discussion focuses mainly on the difference in citizenship status (German - foreign national), while other countries frame discussions around other issues such as immigrant status (native - foreign born), race, or ethnic minority.

### 2.1 A brief history of immigration policy

The first phase of immigration policy was characterised by the massive influx of Germans from all over Europe into the remaining German territory, firstly into all four occupation zones and later also from the newly founded German Democratic Republic into the Federal Republic of Germany. Altogether about 12 million Germans moved residence to the Western part of Germany.

Post-war immigration to Germany can be roughly differentiated in four phases:<sup>3</sup>

1945-1961	From the end of World War II to the Berlin Wall: mass influx of Germans
1961-1973	From the Berlin Wall to the ending of recruitment (the 'Recruitment Stop'): worker recruitment
1973-1989	From the ending of recruitment to the fall of the Berlin Wall: family migration and consolidation of foreign population
1989-2000	From the fall of the Berlin Wall to the new Naturalisation Law: struggling with the immigration demands of a new Europe
2000 onwards	Towards a divided immigration policy?

The beginning of the second phase can be placed alongside the building of the wall between Eastern and Western Germany and the virtual ending of immigration from Eastern Europe. In the face of a booming economy, guestworker recruitment, which had started somewhat earlier, gained importance. Between 1962 and 1973, around 6 million foreign workers from other parts of Europe moved to the Federal Republic, nearly two thirds of them returning in the same period.<sup>4</sup>

Guestworker recruitment stopped abruptly 1973 with the beginning of the first oil crisis and the related economic downturn. Workers with continuing employment were allowed to stay. The third phase can be characterised by increasingly secure residence rights of the

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<sup>3</sup> For more detailed and partly differing periodisations see Meier-Braun (1995) and Schmidt, Zimmermann (1991). For a comprehensive description of post-war migration to Germany see Münz, Seifert and Ulrich (1997).

<sup>4</sup> This estimate is derived from residence registration data (all inflows of foreign nationals from other parts of Europe in employable age into the territory of the Federal Republic without Berlin minus all outflows in the category, Statistisches Bundesamt, Fachserie A, Reihe 3, 1963 and 1973).

foreign population, often under the pressure of court rulings. Inflows were dominated by family reunification. EU enlargement did not change this pattern substantially. After a final return encouragement programme in 1983-84, it became largely accepted that foreign nationals from the former recruitment countries should be integrated into German society. A new and more comprehensive Aliens Act was drafted (which finally came into force in 1991) which basically codified rights of entry and residence. These had formerly been part of administrative practice with a high degree of discretion.

In 1988-89, the communist order in Eastern Europe broke down, and with it emigration restrictions. The fall of the Berlin wall in November 1989 is in every respect an important event in German history, including migration history. In the first half of the 1990s, the Federal Republic of Germany faced a massive influx of immigrants with a right to housing and basic income support, putting local communities under immense pressure: East Germans and ethnic Germans from Eastern Europe, and asylum seekers from all over the world, but mainly from Europe. The 1990s were dominated by efforts to cope with the new border situation. Eastern German immigration was regulated in the course of German unification in the mid-1990s, when Eastern Germans lost the right to request housing in a West German municipality of their choice. At the same time, ethnic German immigration was restricted by a *de facto* quota, while substantial legislative restrictions were put into force in 1993. Beginning in 1993, a number of legislative and administrative measures made access to the asylum procedure in Germany much more difficult, and curtailed social and judicial rights during the procedure. During the same period, border control was completely reorganised: At the Western border, border police turned from an inspection unit sitting at ports of entry to mobile units looking for illegal entrants. At the Eastern border, a completely new border control regime was established, integrating police from the former GDR. The goal of preventing or at least limiting the immigration and settlement of foreigners stands to some extent in contradiction to the need to establish a more flexible migration policy regime in accordance with the political requirements of the European Union and the economic demands of the national economy. The result of these ambivalent legal structures is a 'muddling through' approach in migration policy (Blaschke, 1993) with permanent settlement as an unintended side effect.

The evaluation of migration-related legislation reveals that the legislator usually only reacted defensively when altered circumstances undermined the taken for granted perception of laws and regulations in the four main areas of concern: the definition of German citizens, the treatment of foreigners, the reception of political refugees and the prevention of illegal immigration within the legal framework of the European Union.

(1) The breakdown of the German National Socialist *Reich* created a situation in which millions of Germans were living outside the reduced German territory. The constitution of the Federal Republic of Germany grants them German citizenship in case of settlement in its territory, the specific circumstances being defined by the Federal Displacement and Refugee Act. Between 1961 and 1989, only a few Germans were able to use this privilege, but with the collapse of the communist states numbers multiplied rapidly. The subsequent 1990 Ethnic Germans Reception Act and the 1993 Law to Settle the Results of the War both aimed to channel and to reduce the inflow of ethnic Germans and introduced a new definition of ethnic Germans that denied inclusion to those born after 1993.

(2) Federal legislation on foreigners was enacted for the first time in 1965. With the inflow and the settlement of recruited guest workers and their families the Act became increasingly inadequate and was replaced by the 1990 Aliens Act.

(3) The right to asylum for political refugees was rooted in the basic law of 1949. With the increase in numbers of refugees applying for asylum the liberal asylum procedure became the target for legislation. Initial restrictions concerned the right to claim asylum, with the restriction on so-called 'false' asylum seekers in 1980, the law on the Procedure in Asylum Cases in 1982, the Law on the amendment of the Basic Law in 1993 and the Law on benefits for asylum seekers in 1997.

(4) Legislation was also introduced in response to Europeanisation, in order to comply with the requirements of the European 'single market', which was designed to ensure free movement of services, capital, goods and labour from 1993.

Has this period of reactive restrictionism come to an end? The new nationality and naturalisation laws, which are not very liberal in comparison with many other countries but a break-through in the German context, might indicate a change. The IT Green –Card debate might open the agenda for new discussions, especially if the complicated temporary schemes which are currently envisaged fail to fulfil the expectations of the relevant industries. Nonetheless, restrictionist tendencies are strong, and all major political parties favour a hard line and substantive resources for combating illegal immigration.

## **2.2 The legal framework**

The current 'Law on the Entry and Sojourn of Aliens in the Territory of the Federal Republic of Germany' (Aliens Act) entered into force on 1 January 1991. Its regulations concern all people without German nationality. Ethnic German immigrants from Eastern Europe are not subject to this law as they are considered to have German nationality as soon as they arrive and are accepted.

The Aliens Act is the legal basis which sets out the conditions which foreigners must fulfil in order to enter and reside legally in the country. The Aliens Act also regulates the relationship between the legal status – the type of permit to stay (*Aufenthaltsgenehmigung*) – and the type of work permit (*Arbeitsgenehmigung*) a foreigner may obtain. The basic prescriptions for the entry and residence of foreigners set in the Aliens Act are complemented by and elaborated in at least 45 further national laws and ordinances. Additionally a vast number of ordinances (*Verordnungen*), decrees (*Erlasse*), administration orders (*Weisungen*) at the state level and laws and directives at the supranational level contribute to a situation which it is difficult to grasp even for lawyers experienced in Aliens Law.

In principle, every alien needs a residence permit in order to enter the territory of the FRG and to reside in it. The requirement of a residence permit for entry is the basic rule. Important modifications of the general regulations laid down in the Aliens Law are made by the Law on the Entry and Sojourn of Nationals of the Member States of the European Economic Community (Residence Law EEC). Nationals of EU member states are exempted from principal requirements of the Aliens Law but they are still considered to be aliens and registered in the statistics. Furthermore, the Federal Ministry of the Interior has

the power, by ordinance principally requiring the consent of the federal states, to create further exceptions to this rule. By ordinances, a number of exemptions are formulated that regulate the entry of foreigners. All citizens of richer industrialised states may enter visa-free for the purpose of visits and tourism, usually for three months, but also citizens of a number of states such as Poland, the Czech and Slovakian Republics. Citizens from basically these same countries are exempted from the rule that residence permits for a longer stay may only be obtained in the country of origin before entry.

The Aliens Act provides for different types of *Residence Status (Aufenthaltsgenehmigung)* and also provides for different types of toleration/leave to remain. The status differs according to the purpose of stay, date of entry and length of stay (Federal Government Commissioner, 1999a: 19f). There are five standard residence statuses:

- A *Residence Title for Specific Purposes (Aufenthaltsbewilligung)* makes a person's stay conditional on the reason for which it was issued. The holder must always leave Germany as soon as the reason for his or her stay expires. For example, foreign students allowed to study in Germany under development aid schemes can apply for this residence title and, if granted, may not remain in Germany for any other purpose.
- A *Limited Residence Permit (Befristete Aufenthaltserlaubnis)* is for example issued to spouses of permanent residents. It establishes a basis for permanent residence. The holder's residence status becomes more secure the longer he or she stays.
- An *Unlimited Residence Permit (Unbefristete Aufenthaltserlaubnis)* is the second step towards a secure residence status. Holders of a Limited Residence Permit can apply for an unlimited one after five years if they satisfy certain other criteria, specifically if they can afford to live without recourse to public funds.
- A *Right of Unlimited Residence (Aufenthaltsberechtigung)* is the best and most secure residence status under the Aliens Act. Holders of a Residence Permit can apply for a Right of Unlimited Residence after eight years provided that they satisfy certain other criteria.
- A *Residence Title for Exceptional Purposes (Aufenthaltsbefugnis)* can be granted on humanitarian grounds. In practice, it is mostly granted to civil war refugees. It can only be renewed if the humanitarian grounds still obtain, though holders may apply for a Right of Unlimited Residence after eight years. The Residence Title for Exceptional Purposes is granted to refugees under the Geneva Convention on Refugees.

There are two types of recognised status for people who would otherwise be threatened with expulsion and deportation:

- The *Permission to Reside (Aufenthaltsgestattung)* is the status accorded to an asylum seeker whose application is being processed. Asylum seekers who are granted asylum receive an unlimited residence permit.
- A *Toleration (Duldung)* is not a residence permit. It merely means that the state has abstained from deporting the person concerned. It may be granted on application when a foreigner is legally obliged to leave the country but there are legal or factual reasons against deportation (for example, the person's own country refuses entry or the person faces the death sentence there).

There is a hierarchy between the different residence statuses with regard to the prospect of permanent settlement. Some titles as a rule include the possibility to settle permanently

from the beginning, others confer a right to stay only in particular cases and some titles definitely exclude the right to settle.

Furthermore it is worth noting that all residents – Germans and foreign nationals alike – have to register their residence with the Local Registration Office. The landlord or whoever allows them to take up residence in his or her house must assist in the registration (Cremer, 1997: 54). As a federal rule every residence over two months' length has to be notified. Many regulations by the federal states have shorter periods: in Berlin for instance a period of seven days is set.

Although, generally speaking, all foreign nationals are subject to the duty to hold a work permit, the vast majority of foreign residents is exempted from this duty, either as EU citizens, holders of a Right of Unlimited Residence (*Aufenthaltsberechtigung*) or minors educated in Germany.

In principle, foreign workers entering with the purpose of working have to apply for a residence permit that includes the permission to work and a work permit both before entering the country and before taking up a job. The competent authority for work permits is the local Labour Office. Two kinds of work permits can be granted: The *Work Permit for Specific Employment (Arbeitserlaubnis)* is only granted if the labour office cannot place nationals or preferred foreign residents in the job. Thus a strict priority rule is practiced. The work permit is mainly relevant for those who seek employment in Germany from abroad, but also for asylum seekers and 'tolerated' persons. For refugees and relatives who have migrated for family reunification, waiting periods restrict their entry into the labour market. The other kind of work permit is the *Right to Work*. The Right to Work can be claimed by foreigners who possess a *Residence Permit (Aufenthaltserlaubnis)* or a *Residence Title for Exceptional Purposes (Aufenthaltsbefugnis)* and who have resided in Germany for six years without interruption or worked in Germany for five years in an employment subject to social insurance.

This short overview readily shows that the legislator has introduced a sophisticated range of residence and work permits (cf., for instance, Rittstieg, 2000).

Although Germany does not easily accept people as immigrants, it strongly adheres to the notion that somebody 'can earn her/his way into the country'. Lawful residents with a record of payment into the social security system are accepted as permanent residents, usually after five to eight years. However, most people do not get the chance to earn their way into the country.

### **3. Basic features of the organisational structure**

The formation and implementation of German immigration policy is characterised by its vast heterogeneity. This results from some general features of German federalism and the fact that immigration has always been seen as a side effect of other policies. With regard to their functions in making and implementing laws, we distinguish broadly between organisations involved in legislation, interpretation, administration and enforcement of laws.

### 3.1 The general model

#### 3.1.1 Legislation

Generally, immigration legislation (i.e. the regulation of admission or refusal of entry and sojourn to foreigners) rests with the German parliament (*Bundestag*). The influence of federal government and the governments of the federal states (*Laender*) is nonetheless significant. The government uses its ministerial staff capacities in the Ministry of the Interior to prepare and initiate laws. The *Laender* can influence legislative acts through the second chamber of the parliament (*Bundesrat*) which consists of representatives of the sixteen *Laender* (and often has a different political majority than the *Bundestag*).

A further agent which is becoming more and more important is the European Union and its institutions, in particular, the European Commission, which adopt directives that have binding force for the national framework-setting institutions.

#### 3.1.2 Interpretation

The main power of the *Laender* in immigration matters lies in the interpretation and implementation of laws. The German model of federalism implies that nearly all public functions are carried out exclusively by the *Laender* and, within the *Laender*, by the local communities (*Gemeinden*). The federal level exercises its power mainly by legislatively restricting the discretion of the lower levels of government. The interpretation of laws through rules and ordinances rests at the *Laender* level.

All laws and administrative interpretations of laws are subject to court control. In Germany, it is mainly the administrative jurisdiction which is in charge of immigration-related matters. Administrative courts have frequently corrected administrative decisions on immigration cases, sometimes resulting in a need to amend general ordinances.

#### 3.1.3 Administration

The main administrative bodies in immigration matters are the 660 aliens' offices at the community level. They are increasingly bound by rules and ordinances of the *Laender* and closely co-operate with other community offices such as residence registration offices or welfare offices. Nonetheless, they influence the impact of laws by exercising the remaining discretion and independently allocating personnel to tasks and thus setting implicit priorities.

#### 3.1.4 Enforcement

Enforcement of all laws including laws concerning immigration questions is generally the task of the *Laender* state police. Police are subject to state legislation and state government, with little influence from central government. Thus, the state police forces are also responsible for all immigration-related crimes and for arresting foreigners without residence permit. It should be noted that illegal residence is considered a crime under the



German Aliens Law, while illegal work is considered to be a regulatory offence only. The *Laender* criminal police have specialised departments responsible for illegal work and foreigners without status.

### 3.2 Exceptions

Nonetheless, the general principle of *Laender* administration and enforcement is breached by a considerable number of exceptions, as far as immigration matters are concerned. Three exceptions relate to merely administrative functions:

- First, visa issuance is administrated by the embassies and consulates abroad under the direction of the Federal Foreign Office (*Auswärtiges Amt*).
- Secondly, the admission of ethnic Germans from the former Soviet Union is administrated by the Federal Administration Office (*Bundesverwaltungsamt*).
- Thirdly, a separate administration has been set up to deal with asylum cases, the Federal Office for the Recognition of Refugees (*Bundesamt zur Anerkennung ausländischer Flüchtlinge*).

Two further exceptions, which are of major importance for implementation of policies in respect to foreigners, will be presented in more detail.

#### 3.2.1 Policing international travel

Apart from the general *Laender* police forces, there are also some specialised units at the federal level. The only independent Federal Police is the *Bundesgrenzschutz* (border police) whose migration-related tasks involve virtually unlimited identity controls. To detect undocumented entries, identity controls can be conducted, without the requirement for initial suspicious circumstances, within thirty kilometres from the border and also, since 1998, at train stations and airports. In the first half of 1999, because of the extended control rights, 30,800 Federal Border Police officers conducted about 370,000 controls. It was stated that altogether 40,000 suspects were detected, with offences ranging from statutory offences to capital crimes [without further specification so that undocumented migrants are included as well as, for instance, German soccer hooligans], of those about 50% were in the interior. To render the extended inland controls more legitimate, the Federal Border Police announced that 3,500 undocumented migrants were detected in the interior (Innenpolitik IV, 1999: 2). The Federal Border Police also assist deportations from the point of departure from federal borders, e.g., they receive deportees at the airport and see that they do not leave the plane or guide their flight to another country. Additionally, they may also be deployed to supplement state police forces on major events.

#### 3.2.2 Labour market issues

The second exception has to do with a second feature of German federalism. It is characterised not only by strong administrative decentralisation, but also by functional differentiation, especially in the social policy field. Specifically, the social security system is largely organised through statutory compulsory social insurance, with only supplementary functions resting with the private sector and the states and communities (in

immigration: welfare for asylum seekers and other non-deportable aliens). These statutory insurance schemes are semi-state organisations under the supervision of the Federal Ministry of Work and Social Order.

For immigration matters, the Federal Labour Office is of particular importance. It is mainly responsible for unemployment insurance and employment services. Nonetheless, it is also responsible for the administration of labour permits and the detection of benefit fraud and work without work-permit. The staffing of these enforcement units has been beefed up since the 1980s. Enforcement staff have almost complete discretion in their choice of work sites, but they act mostly on tips from competitors, neighbours and other authorities, and concentrate on the construction sector (Vogel, 2000b).

A number of other offices are concerned with the control of labour market regulation: in Berlin for instance over 50 different offices have competence to control certain aspects of labour market regulation. Among these co-operating offices, customs authorities are the most important. They were redirected to combat illegal employment after the abolition of EU internal borders in 1991.

Today, at least 3,500 labour office and customs inspectors check the identity papers of more than 600,000 persons annually during workplace raids.<sup>5</sup> In current deliberations on the reorganisation of the institutional structure of labour market control, customs authorities are a candidate to become the centralised agency in the field of labour market regulation.

### **3.3 Co-operation and information sharing**

As has been described, the organisational structure in Germany is characterised by a high degree of decentralisation and fragmentation. On the other hand, strictly public authorities and quasi-public intermediaries in Germany are generally supposed to co-operate closely with each other. With many organisations involved, information sharing is of central importance for the implementation of immigration-related laws. Generally, the German Aliens Act requires all public employees to inform the Aliens Authorities if they come across a person lacking residence status in the course of their work (Cremer, 1997: 55). Some requests are standardised, e.g.: residence registration offices routinely inform aliens authorities; and visa issuing posts routinely require information from the concerned local aliens authority if they have to decide on a visa for a longer stay.

The Central Aliens Register is an important means of information exchange. It consists of two files, one including visa applications which is supplied with information by consular posts abroad, and another one which includes basic personal and status related data on all foreign national residents and other foreign nationals of some importance for the administration, especially asylum seekers (who are not considered residents) and expelled persons.<sup>6</sup>

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<sup>5</sup> Own calculation based on limited data, partly based on a three year average. Data from Bundesregierung (1996: 54), Lüpke (1997: 31).

<sup>6</sup> Only since 1994 has this highly sensitive database been regulated by law. For more information see Streit (1996).

Public authorities dealing with matters relating to the law on aliens, asylum seekers, and refugees are not only entitled to request specific information from the Central Aliens Register but under certain conditions may also extract this information via on-line connections for data transmission (Cremer, 1997: 57). The Register receives about 1 million inquiries per month (Bundesregierung, 1995: 2). It is of central importance for the local Aliens Offices, which have to inquire into the database before granting or denying a residence permit.

In conclusion, there are a number of administrative offices and police services that are in charge of the various aspects of immigrant entry, residence and work regulation in Germany. The administration is rendered complex because of the inherent complexities of the German system deriving from its de-centralised government, which includes central, *Laender* and local authorities and services. Furthermore, the system allows for a number of exceptions, while its smooth functioning requires co-operation between the various services. In studying the impact of organisational culture on immigration policy implementation, these complexities as well as the specific practices and modalities of co-operation need to be taken into account.

#### **4. Migration flows: A general account of different categories**

In the following section, we give a quantitative overview of migration to Germany during the 1990s, a decade of high immigration and intensive efforts to regulate and restrict these migration flows. We start with a presentation of important categories with regard to entry. Secondly, we show how total migration streams developed under the influence of the categories identified.

Quantitative presentations can easily be misunderstood by readers not familiar with the statistical categorisations used in Germany, as the collection of statistics differs significantly from other countries. Therefore we start with a preliminary remark on the characteristics of German migration data.

##### **4.1 Preliminary remarks on German migration data**

The presentation of migration data is strongly influenced by the German organisational structure of migration control. Nearly all data are procedural data which were collected in the course of administrative acts and not for statistical purposes. Basically, there are three types of statistics:

###### **4.1.1 Data from the registration offices**

These data include all registered migration over international borders. They are compiled from data in all German municipalities, allowing only a broad differentiation by nationality (including German nationality) and country of origin. It has to be noted that it is a case statistic. An example: if a Polish woman registers in June, because she does a seasonal job in agriculture for two months, she has to de-register in August on return. If she comes back in October to marry a German citizen, this will again be counted as an inflow in the same

year. As a result, inflows usually overestimate the number of *persons* regularly entering the country, and outflows are usually underestimated, as people with no intention to return to Germany often do not take the trouble to de-register. Total flows presented in section 4.3 are based on these statistics, as well as some estimates.

#### 4.1.2 Case data of administrating authorities

As has been shown in the preceding section, different authorities are responsible for the administration of different migrant categories. These organisations present data on case management in the yearly reports, which are used to present inflows in selected migration categories.

#### 4.1.3 Data from the Central Aliens Register

Other categories of migration can only be estimated by comparing stock data for different points in time in the Central Aliens Register. Three types of migration data, which are often used in other countries, do *not* influence German statistics:

1. Entries at the border: Entries at German borders are neither counted nor registered or differentiated in any way. With a low estimate of 666 million entries in 1996 (Vogel, 2000a), it can be stated that there is a huge amount of traffic over German borders, indicating its high degree of international integration.
2. Immigration data: Germany does not make any comprehensive effort to find out how many people have entered the country with the prospect of medium- or long-term residence. A categorisation of immigrants and non-immigrants in a single year cannot be presented. Data in some migration categories are estimates derived from the comparison of different statistics.
3. Census data: For many countries, censuses and official representative surveys form the most important basis of population statistics. This is not the case in Germany. The last census was in 1987. Yearly micro-censuses include little information useful for analysing migration flows.<sup>7</sup>

Furthermore, German statistics are always differentiated by nationality, but never by country of birth or ethnic or racial criteria. It is official statistical policy that these questions are not asked.

## 4.2 Migration flows by categories

For the purpose of this report, we categorise migration flows into *four broad categories*:

The categories of inflow having a right to settle permanently constitute the first group. The categories with a prospect of gaining a right to stay permanently when certain conditions are fulfilled constitute the second group. The third category is strictly temporary, i.e. denied the hope of gaining a right to stay. The fourth group consists of asylum seekers and

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<sup>7</sup> They include interesting information on the stocks of foreign population, but are still rarely analysed under migration aspects (see Velling, 1995)

other people seeking protection from deportation in Germany. Only a small proportion of this group has the chance of moving to group 1 or 2 after recognition of their application.

#### 4.2.1 Inflow with the right to settle

Even if Germany has not developed a deliberate immigration policy, it still leaves open three possible routes to immigration for foreign nationals.

##### (a) Ethnic Germans

The inflow of ethnic Germans is the most important immigration category for Germany.

It will be included in this overview for two reasons: First, although ethnic Germans are considered German citizens as soon as they are accepted and move to Germany, they still do not have German citizenship prior to this and have to apply for naturalisation if they want to exercise political rights. They are born abroad with a foreign nationality and have to be categorised as immigrants in a material sense of the word. Secondly, German immigration leads to further immigration from the same regions, since ethnic Germans may bring their spouses. ‘Because of the increasing number of interethnic marriages, a considerable share of the accompanying family members are in the meantime of non-German origin’ (Lederer, 1999a: 21; [translation by the authors]).<sup>8</sup>

In the period from 1950 to 1996, altogether about 3.7 million ethnic Germans were accepted into the territory of the Federal Republic of Germany. The peak of immigration was the year 1990 with 397,073 registered entries. The introduction of a factual quota in 1990, the restriction to Germans from the CIS and people born before 1993, and the introduction of language tests in the country of origin led to a significant reduction in numbers and a shift in the countries of origin. The most important countries of origin were Poland and Romania in the 1980s and the successor countries of the USSR in the 1990s.

Today, Kazakhstan is the most important country of origin: In 1996, 52% of all ethnic Germans came from there. In the 1990s the immigration of Kazakh citizens rose considerably. It is worth mentioning that the ethnic Germans of the 1990s are less qualified and less fluent in German than the former. Thus in Germany these ethnic Germans are perceived by the local population as ‘Russians’ and by the local authorities as ‘difficult to integrate’.

**Table 1: Inflow of ethnic Germans**

1990	1991	1992	1993	1994	1995	1996	1997	1998
397,073	221,995	230,565	218,888	222,591	217,898	177,751	134,419	103,080

Source: Lederer, 1999a: 64.

##### (b) EU immigration

Since the ratification of the Treaty of Rome in 1957, EU citizens have had the right to immigrate and to settle without restrictions in the European Union, provided that they can

<sup>8</sup> ‘Aufgrund der wachsenden Zahl interethnischen Ehen ist mittlerweile ein beachtlicher Anteil der mitziehenden Familienmitglieder nichtdeutscher Herkunft’ (Lederer, 1999a: 21).

live without reliance on welfare during early periods of residence. Thus the residence status of 25% of the foreign population is secure. In the period 1993 to 1998, the population with EU nationality rose by about 300,000, because of the accession of Finland, Austria and Sweden to the EU, with significant in- and outflows. A good share of the registered turnover in migration can be attributed to the temporary employment of an estimated 200,000 contract workers from EU member states on construction sites in Germany (mostly not according to the set conditions).

(c) Immigration of quota refugees

The *Act on Measures for Refugees admitted in the course of humanitarian programmes (Contingent Refugee Act)* enacted in 1980 is a means of entry to permanent settlement. The Contingent Refugee Act is reserved for exceptional situations in which all German *Laender* agree to take part in an international programme to admit a limited number of refugees who cannot be saved otherwise. Admitted contingent refugees receive an unlimited residence permit and can participate in integration programmes such as language courses and professional training courses.

Up to 1995 Germany admitted 37,099 contingent refugees from Vietnam, Laos, Cambodia (35,464), Chile (1,456), Argentina (88), Cuba (4) and Kurds from Iraq (87). In the 1990s, Germany also introduced quotas for Jewish citizens from the former USSR in an effort to stop uncontrolled migration through the asylum system and to avoid deportations of Jews, who do not qualify for asylum.

**Table 2: Immigration of quota refugees of Jewish origin from the former Soviet Union**

Up to 31.12.1993	1994	1995	1996	1997	1998
25,132	8,811	15,184	15,959	19,437	17,788

Source: Lederer, 1999a: 24

4.2.2 Inflow with the possibility to settle if particular conditions are met

The second broad section of inflow types includes the categories that can obtain permanent residence with the condition that certain requirements are met. In these cases de facto immigration takes place.

(a) Inflow for work purposes

German law provides exceptions for the inflow of qualified workers in needed categories under exceptional circumstances, with the possibility to improve residence rights after a number of years. There are no data available on this stream, but judging from other statistics, numbers seem to be fairly small.

(b) Relatives of foreigners from non-EU countries

Family migration is usually restricted to the nuclear family (spouses and minor children) unless exceptional circumstances exist. Visas issued for the purpose of family reunification give an indication of the importance of this stream. In 1996 (earlier data not being

available), 54,886 visas were issued (of which 22,245 were for people from Turkey), 61,740 visas in 1997 (of which 26,590 from Turkey) and 62,992 visas in 1998 (of those 21,055 from Turkey) (Lederer, 1999a: 20). Family members are subject to different restrictions concerning the entry to the labour market and face waiting periods until they gain a right to stay, which is independent of the family member they joined.

#### 4.2.3 Inflow for temporary purposes

The third broad section of inflow types includes the categories definitely excluded from the right to unlimited residence. These categories are by law obliged to depart when the purpose of sojourn is at an end or the residence title for specific purposes has expired.

##### (a) Seasonal and contract workers from CEE

Seasonal workers from Bulgaria, Yugoslavia, Croatia, Romania, Slovenia, the Czech Republic, Hungary and Poland are permitted to work three months per year in Germany in sectors with a seasonal demand for labour, such as agriculture, hotels and restaurants and exhibitions. Seasonal workers have to be placed by the competent labour offices for employment in German firms. The work permit is granted only in the case where no eligible work force (inland or EU workers) can be placed. They have to be paid according to local standards, and social insurance is obligatory if the contract lasts longer than eight weeks (or 50 days). About 220,000 seasonal workers were officially employed in 1999, with a majority being from Poland.

**Table 3: Employment of seasonal workers**

	1991	1992	1993	1994	1995	1996	1997	1998
Number of Placements	128,688	212,442	181,037	155,217	192,766	220,894	225,951	231,810
Of which from Poland	78,594	136,882	143,861	136,659	170,576	196,278	202,198	187,690

Source: Lederer, 1999a: 76.

‘Contract worker’ is a term used specifically to refer to the employment of workers from Central and East European (CEE) countries and Turkey on the basis of intergovernmental agreements. A fixed contingent of work permits is issued for the employment of foreign workers. These agreements enable a form of subcontracting between firms located in Germany with firms located abroad. The agreements specify the size of contingents of contract workers sent from particular non-EU countries and for each area of economic activity. Construction is the sector in which two thirds of all contract workers are employed. The employment of contract workers evoked a fierce debate in the early 1990s because it coincided with rising unemployment of resident construction workers in a boom phase. As a result of the critique by the construction trade union, the quota was reduced from 94,902 in 1992 to 32,882 in 1998. In 1998 contract workers from the following countries were employed: Bosnia-Herzegovina (average employment: 687), Bulgaria (688), FR Yugoslavia (0), Croatia (2,780), Latvia (167), Macedonia (185), Poland (16,942), Romania (2,631), Slovakia (943), Slovenia (660), Czech Republic (1,060), Turkey (1,103), Hungary (5,036).

##### (b) Particular programmes for a temporary sojourn (students, au-pairs, vocational training)

This category covers different forms of programmes for temporary employment or training on a small scale. Several provisions of the Ordinance to Define Exceptions from the Recruitment Stop and the Work Permit Ordinance create a means of entry for most of the temporary sojourns of students, au pairs, athletes, teachers, managers and persons in specialised professions, border commuters or trainee workers. There are no data available on this category.

#### 4.2.4 Inflow of people seeking admission for humanitarian reasons

War, political or ethnic persecution, natural catastrophes and disastrous economic conditions cause people to seek admission into secure and rich industrial countries. Germany – as many other countries – offers hardly any way to seek admission from abroad. Moreover, in addition to the classical instrument of asylum for politically persecuted individuals, the new 1990 Aliens Act provided a scheme for temporary protection of war and civil war refugees.

##### (a) Asylum seekers

The number of asylum applicants rose significantly during the 1980s and reached a peak in 1993 when the legislator amended the relevant article of the constitution and introduced a number of other restrictive measures to reduce the numbers of applicants. Since 1994 the number of applications has decreased:

**Table 4: Asylum applications in the 1990s**

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
193,063	256,112	438,191	322,599	127,210	127,937	116,326	104,353	98,644	95,113

Source: Lederer, 1999: 68; Innenpolitik, Nr. I/2000: 8.

At the moment the number seems to stabilise roughly on a level of 100,000 applications annually. The main countries of origin of asylum applicants are the following:

**Table 5: The main countries of origin of asylum applicants**

	1998	1999	Changes in %	Changes absolute
FR Yugoslavia	34,979	31,451	- 10.1	- 3,528
Turkey	11,754	9,065	- 22.0	- 2,689
Iraq	7,435	8,662	+ 16.5	+ 1,227
Afghanistan	3,768	4,458	+ 18.3	+ 690
Iran	2,955	3,407	+ 15.3	+ 452
Azerbaijan	1,566	2,628	+ 67.8	+ 1,062
Vietnam	2,991	2,425	- 18.9	- 566
Armenia	1,655	2,386	+ 44.2	+ 731
Syria	1,753	2,386	+ 44.2	+ 403
Russian Federation (CIS)	867	2,094	+ 141.5	+ 1,227

Source: Innenpolitik Nr. I / 2000: 8.



Obviously the applicants come from areas with a high conflict potential. Among the applicants a considerable proportion are ethnic minorities within their countries of origin:

**Table 6: Ethnic origin of asylum-seekers of the three most important countries of origin 1995 – 1998**

Country of origin	1995	1996	1997	1998
<b>FR Yugoslavia</b>	<b>26,227</b>	<b>18,085</b>	<b>14,798</b>	<b>34,979</b>
Of those Kosovo-Albanians	21,980	15,706	12,538	30,794
In %	83.8	86.8	84.8	88.8
<b>Turkey</b>	<b>25, 514</b>	<b>23,814</b>	<b>16,840</b>	<b>11,754</b>
Of those Kurds	20,877	19,301	13, 791	9,774
In %	81.8	81.0	81.9	83.2
<b>Iraq</b>	<b>6,880</b>	<b>10,842</b>	<b>14,088</b>	<b>7,435</b>
Of those Kurds			10,017	4,137
In %			71.1	55.6

Source: Lederer, 1999a: 28.

Asylum legislation offers protection for persons who are politically persecuted by their state of origin and have not found a safe haven elsewhere. The Geneva Convention, transposed into domestic law by the Aliens Law, additionally protects those whose life and health is endangered on return even if the strict conditions for political persecution do not apply. The recognition as a political refugee confers a secure residence status, and Convention refugees are offered temporary protection, which may turn into a secure residence status.

But mostly, seeking protection ends either in an outright rejection, followed by absconding or return, or in a tolerated limbo status.<sup>9</sup> The figures for 1999 may serve as an example: 62,007 decisions were made by the Federal Office for the Recognition of Refugees. 2,221 cases (3.6%) were recognised as refugees for political reasons and another 3,379 cases (5.4%) fell under the protection of the Geneva Convention. Since 1990, about 160,000 asylum seekers have been recognised as refugees.

Asylum seekers and tolerated foreign nationals face limited opportunities to find lawful work, receive public welfare at a very low level, have no opportunity to improve their residence status and face the constant threat that toleration may end. Occasionally, the government decides with consent of the *Laender*, that some groups should get the chance to get on the route to permanent residence, usually after at least eight years and on condition that they find regular employment in spite of labour market restrictions (*Altfallregelungen*).

In view of this situation, data on asylum seekers reflect only part of the inflow of people seeking protection. The application for asylum may also be made later than the migration to Germany. Although there are efforts towards centralisation of the asylum system, many cases are still dealt with autonomously by local authorities.

#### (b) Temporary protection of war and civil war refugees

<sup>9</sup> Either asylum applications are accepted but not decided so that the person stays as asylum seeker with a Permission to Reside (*Aufenthaltsgestattung*) or they receive a 'Toleration', or they are 'Tolerated' without any status.

As early as the 1980s, immigrants from Central and Eastern European countries who were perceived to be refugees, were officially tolerated in an effort to relieve the asylum system. During the 1990s, the Yugoslavian wars brought large numbers of people to Germany, who were not individually persecuted, but still needed protection. Only a small number of Kosovo refugees (15,000) were offered temporary protection as part of an international evacuation action in 1999. Usually, people who entered legally as tourists or with some other status, or illegally have sought protection once they were inside the country. Even if some of these refugees had Permission to Reside (*Aufenthaltsgestattung*) or Residence Title for Exceptional Purposes (*Aufenthaltsbefugnis*) at some stage of their stay, most of them ended up being tolerated if they did not return. In June 1999 from a total of 350,000 Bosnian war refugees 70,000 still remained in Germany. During the summer of 1999 a total of 180,000 Yugoslavians were asked to leave the country (Federal Government Commissioner, 1999b: 108).

### 4.3 Migration flows

In this section, we summarise total flows in the 1990s. The accumulated data reveal that the positive balance of migration (the difference between entries and departures) increased from 376,000 in 1990 to 593,000 in 1992. The large increase in 1991 and 1992 was, among other factors, attributable to large numbers of refugees from the former Yugoslavia. Since then, the figure has gone down, even becoming negative since 1997.

**Table 7: Inflow and outflow of residents with foreign nationality in Germany (including EU-citizens)**

	<b>Inflow</b>	<b>Outflow</b>	<b>Saldo</b>
1991	925,342	497,540	427,805
1992	1,211,348	614,956	596,392
1993	989,847	710,659	279,188
1994	777,516	629,275	148,241
1995	792,707	567,441	225,260
1996	707,954	559,064	148,890
1997	615,298	637,066	- 21,768
1998	605,500	638,955	- 33,455

Source: Lederer, 1999a: 8.

This strong decline is *inter alia* due to the return of the Bosnian refugees and a decreasing migration from the Federal Republic of Yugoslavia (-13,300). Moreover, the positive migration balance of Turks, which still amounted to 30,000 in 1996, went down to 10,000 in 1997. Thus, with regard to the non-EU countries the negative saldo is mostly a result of the policy towards refugees of the civil war in the former Yugoslavia.

**Table 8: Inflow and outflow for non-EU foreigners for selected countries, 1997**

<b>Country</b>	<b>Inflow</b>	<b>Outflow</b>	<b>Saldo</b>
Turkey	55,981	45,978	+ 10,003
FR Yugoslavia	31,227	44,479	- 13,252
Poland	71,214	70,171	+ 1,043
Croatia	10,006	18,948	- 8,942

Bosnia / Herzegovina	6,901	83,943	- 77,042
Iran, Isl. Republic	6,219	3,894	+2,325
Romania	14,247	13,588	+ 689
Vietnam	3,201	6,803	- 3,602
Morocco	3,951	2,429	+1,522
Afghanistan	5,273	1,950	+3,323
CIS	24,815	11,189	+ 13,626
Ukraine	12,520	4,303	+ 8,217
Kazakhstan	14,638	3,019	+ 11,619

Source: Statistisches Bundesamt, 1999: 80.

Furthermore the overview reveals that the saldo is, to a certain degree, independent from the inflow: Poland as the most important country of origin with 71,214 cases resulted in a positive saldo of only 1,043. On the other hand the immigration from CIS resulted in a positive saldo of 13,626 with a comparatively meagre inflow of only 24,815. It is interesting to note that migration saldo was negative for the years 1997 and 1998 despite considerable inflows of more than 600,000 registered cases.

In 1997, the number of entries from the former recruitment countries was lower than that of departures (-16,552). Showing some heterogeneity between the countries, one can generally speak of a declining trend. Migration from Kazakhstan is related to the admission of Ethnic Germans and for the Russian citizens of Jewish faith.

In conclusion, under the influence of restrictive immigration policies pressing for the return of people seeking protection and favouring temporary work, migration saldos came down considerably and are now negative. Nonetheless, total migration flows are still impressively high with about 600,000 people moving residence over German borders in both directions. Thus the intricate social process of migration has to be viewed as a concept covering not only permanent immigration but also return migration and circular migration (Cyrus, 2000).

## 5. Stocks of foreign population: Selected characteristics

The following descriptions of the situation of the foreign resident population uses to a great deal material published by the Federal Commissioner for Foreigners' Issues (1999a). While flow data presented above is derived from registration offices and different administrative sources, stock data rely on the Central Aliens Register. Employment data are mainly taken from social security statistics.

The Central Aliens Register reported 7.3 million foreign nationals in Germany at the end of 1998, accounting for about 9% of the total population.

**Table 9: Foreigners and the total population in Germany 1991-1998**

Year	Total population	Foreign Population	Share of Foreigners in %	Changes in the foreigner population in %
1991	80,274,600	5,882,267	7.3	- / -
1992	80,974,600	6,495,792	8.0	+ 10.4

1993	81,338,100	6,878,117	8.5	+ 5.9
1994	81,538,600	6,990,510	8.6	+ 1.6
1995	81,817,500	7,173,866	8.8	+ 2.6
1996	82,012,200	7,314,046	8.9	+ 2.0
1997	82,057,400	7,365,833	9.0	+ 0.7
1998	82,037,000	7,319,593	8.9	- 0.6

Source: Lederer, 1999a: 44.

## 5.1 Nationalities

At the end of 1998, the largest group among the foreign resident population had Turkish nationality, numbering 2.1 million, followed by nationals of the Federal Republic of Yugoslavia (Serbia and Montenegro), numbering 719,474, with another 450,000 from other successor states of the former Yugoslavia.

About one fourth of all foreigners living in Germany at the end of 1998 were nationals of EU member states, following the accession of Finland, Austria and Sweden to the EU on 1 January 1995. The largest group of foreign EU nationals came from Italy and Greece.

**Table 10: Foreign nationals by selected nationalities as for 31 December 1998**

<b>Citizenship</b>	<b>Total</b>	<b>Male</b>	<b>Female</b>	<b>in %</b>
<b>Foreigners</b>	<b>7,319,593</b>	<b>4,027,265</b>	<b>3,292,328</b>	<b>100</b>
1. Turkey	2,110,233	1,145,057	965,166	28.8
2. FR Yugoslavia (Serbia/Montenegro)	719,474	409,157	310,317	9.8
3. Italy	612,048	366,095	245,953	8.4
4. Greece	363,514	200,045	163,469	5.0
5. Poland	283,604	149,383	134,221	3.9
6. Croatia	208,909	197,358	101,551	2.9
7. Bosnia-Herzegovina	190,119	98,661	91,458	2.6
8. Austria	185,159	101,671	83,488	2.5
9. Portugal	132,578	76,634	55,944	1.8
10. Spain	131,121	69,352	61,769	1.8
11. Iran, Isl. Republic	115,094	68,756	46,338	1.6
12. Great Britain	114,055	67,915	46,140	1.6
13. Netherlands	112,072	60,320	51,752	1.5
14. USA	110,680	63,416	47,264	1.5
15. France	105,808	48,912	56,896	1.5
16. Romania	89,801	51,590	38,211	1.2
17. Vietnam	85,452	48,056	37,396	1.2
18. Morocco	82,748	50,257	32,491	1.1
19. Afghanistan	68,267	37,837	30,394	0.9
20. Lebanon	55,074	32,538	22,536	0.8
21. Hungary	51,905	33,012	18,893	0.7

Source: Federal Government Commissioner, 1999b: 260.

## 5.2 Age groups and sex

Male migrants (55.3%) were somewhat more numerous in the foreign population in Germany than female migrants in 1997. The foreign population is substantially younger

than the German population with only 3% over 65, whereas 16% of Germans are in that age group. However, the proportion of older migrants, both male and female, will gradually increase in the future as well.

Since the early 1970s, children born to migrant parents have accounted for between 10% and 13% of all children born in Germany. On December 31, 1998 out of 7.3 million registered foreigners 1,631,724 were born in Germany (22.3%) (Lederer, 1999a). This means, today, that just under two-thirds of all foreign nationals under 18 were born in Germany, and the vast majority will grow up and have children in Germany. Their children will acquire German nationality by birth, as a result of recent nationality law changes.

### 5.3 Length of stay and residence status

The foreign resident population forms an integral part of the population in Germany. Because of the length of stay, one can assume that most migrants remain in Germany. Thus, at the end of 1997, 30% of the total migrant population, both male and female, had lived in Germany for twenty years or longer, and about half of the population for more than 10 years.

**Table 11: Length of stay of the foreign population in years as for 31 December 1997 (population expressed in thousands)**

Years:	Less 1	1 - 4	4 - 6	6 - 8	8-10	10 - 15	15 - 20	20 - 25	25 - 30	30 or more
<b>Total</b>										
	380.2	1,162.7	976.0	713.7	507.2	663.9	752.2	762.6	961.7	485.5

Source: Statistisches Bundesamt

The length of stay of foreign workers and their families from the former recruitment countries is even longer. Almost two thirds of all Turks and Greeks, 71% of Italians and 80% of Spaniards have lived in the country for ten years or more. With regard to the relevant statistics, note that the average length of stay is reduced because of the influx of relatively large numbers of asylum seekers and refugees over the last decade and the naturally short 'length of stay' of the relatively large numbers of migrant children born in Germany. Considering the fact that migrants – and especially foreign workers and their families – have lived in the country for many years and that for most of them, Germany has become the focus of their life, the residence status of many migrants still leaves much to be desired.

**Table 12: Residence status of the foreign population as for 31 December 1998**

Total	Limited Residence Permit	Unlimited Residence permit	Right of Unlimited Residence	Residence title for Specific Purposes	Residence title for exceptional Purposes	Permission to Reside	Toleration	Rest
7,319,593	1,775,339	1,985,030	849,259	206,379	164,570	283,612	284,767	1,770,637

Source: Bundesverwaltungsamt – AZR.

Of the 7.3 million foreigners registered in Germany, 1.8 million have a secure status as EU citizens and a further 4.6 million obtain a safe or relatively safe residence status (Lederer, 1999a). Of a total of 2.11 million Turks at the end of 1998, for example, 765,000 had a limited residence permit, 610,000 an unlimited residence permit, and only 500,000 had a right of unlimited residence (23.7%), the most secure residence status. Since a secure residence status is essential for successful integration, there is still a deficit here.

Additionally, the table shows the large number of foreign residents without any regular residence status. Besides those people who are tolerated (3.9%) or asylum seekers with a Permission to Reside (3.9%) there is a large unspecified 'Rest' category which includes among others people at all stages of deportation procedures (22.8%).

#### **5.4 Geographical distribution**

The geographical distribution of the foreign population among the federal states and between urban and rural areas is extremely varied. At the end of 1997, over 70% of all migrants were concentrated in the four large states of Baden-Württemberg, Bavaria, Hesse and North Rhine-Westphalia. In the states of former West Germany, more than twice as many migrants are to be found in large conurbations than in rural areas, and almost three times as many in the urban centres. Here, migrants account for an average 15% of the total population, and in some cases the figure is even considerably higher. In 1995, the percentages were highest in the cities of Frankfurt am Main (30.1%), Stuttgart (24.1%) and Munich (23.6%).

Migrants make up a very small part of the population in the states of former East Germany. Excluding Brandenburg (2.3%), they account for less than 2%, and only range from 1.8% to 2.8% even in the urban centres of Leipzig, Halle, Dresden, Rostock and Magdeburg.

#### **5.5 Refugee groups in the Federal Republic of Germany**

The number of refugees in Germany rose, according to ministerial estimates, from 700,000 in 1987 to roughly 1.9 million in 1993, and declined again to about 1.4 million in 1997. This corresponded to 16.5% of all migrants in 1987, 28.0% in 1993 and 19.0% in 1997. The roughly 1.4 million refugees in 1997 included around 307,500 persons granted asylum and dependants of such persons (22.0% of all refugees), 25,500 convention refugees (1.8%), an estimated 95,000 quota refugees (6.8%), 16,000 stateless aliens (1.1%), 360,000 de facto refugees (25.7%), 320,000 asylum seekers (22.9%) and 254,000 refugees from civil wars (18.1%).

#### **5.6 Employment**

Since 1994, a general fall in demand for labour and stricter laws on asylum and work permits have led to a decline in the numbers of foreigners engaged in employment subject to social insurance contributions. In the years before, from 1980 to 1993, the number of foreigners engaged in employment subject to social insurance contributions had risen continuously from 1,583,898 to 2,183,579. The same trend applies for other (less important) groups of economically active foreign nationals. Overall in recent years, a

social differentiation can be observed between immigrant groups that are economically more or less successful.

**Table 13: Foreigners in employment liable to social insurance**

1992	1993	1994	1995	1996	1997
2,103,916	2,226,862	2,167,959	2,155,861	2,084,690	2,017,925
8.9 %	9.6 %	9.4 %	9.4 %	9.3 %	9.0 %

Source: Federal Labour Office.

A breakdown by occupational groups of employees liable to social insurance in West Germany (as of 30 June 1998) shows that foreigners are over-represented in occupations involving heavy physical work but that they are also strongly represented in the service sectors. They accounted for about 20% in the following occupational groups: cooks (23.1%), assemblers and metalworkers (22.7%), welders (22.2%), plastics processing workers (21.3%), hotel industry workers (19.8%), cleaners (19.0%) and miners (17.1%).

**Table 14: Unemployment rate in total and among foreigners**

Year	Total Unemployment rate	Foreigners' Unemployment rate
1979	3.2	3.9
1980	3.5	4.8
1981	5.4	8.5
1982	7.5	11.8
1983	8.6	13.7
1984	8.6	12.7
1985	8.7	13.1
1986	8.2	13.0
1987	8.4	14.1
1988	8.1	13.9
1989	7.3	11.2
1990	6.6	10.1
1991	6.0	10.6
1992	6.5	12.3
1993	8.3	15.3
1994	8.8	15.5
1995	9.0	16.2
1996	10.0	18.6
1997	10.7	19.7
1998	9.8	18.3

Source: Federal Labour Office.

However, a long-term look at annual average unemployment figures and rates shows that 1998 saw the highest unemployment ever with 534,698 unemployed foreigners; job losses in 1998 affected women above all. The number of job-seeking foreign nationals is actually even higher, as foreigners without a work permit are not counted as unemployed. The foreigner-specific unemployment rate amounted to 20% in 1998. Moreover, the gap between Germans and foreigners has widened significantly. Lack of education in an increasingly knowledge-based economy may be one reason: 78% of all unemployed

foreigners had no vocational qualifications in 1997, while among unemployed Germans this figure was only 38%.

From this brief overview of the immigration flows towards Germany and the size of the immigrant population that is actually present in the country, it becomes clear that immigration is a critical issue for contemporary German society. The issue is inextricably related to a number of policy areas such as employment, welfare and, last but not least, citizenship. Given the large size of in- and outflows, implementation of immigration policy generally and with particular reference to the issue/renewal of stay and work permits is of great importance in the German context. The analysis of the dynamics of the implementation process undertaken in this project aims to make a contribution precisely in this field.

## **6. Research on undocumented immigration and the offices concerned with combating illegal immigration**

There was hardly any research about (im)migration of foreign nationals to Germany until the 1970s when scientific concern began to focus on problems of the integration of the resident foreign population and – when the inflow of refugees increased – on aspects of the immigration of refugees.

Early research concentrated on the political preconditions of the guestworker recruitment system and its social and economic consequences.<sup>10</sup> In the 1980s, integration was the dominant topic of academic research.<sup>11</sup> The data basis for empirical research was improved, especially by including a large sample of foreign nationals from the five main former recruitment countries into the socio-economic panel (Schulz *et al.*, 1993), the biggest longitudinal database in Germany. Generally, research concentrated on these nationalities framed as ‘foreign workers and their families’ (see, for instance, Forschungsinstitut, 1985), with a somewhat disproportionate focus on the social situation, return and integration of Turkish nationals (Meys, Sen, 1986). The 1990s saw a significant rise in migration-related research and a broadening of topics both with regard to the investigated aspects and nationalities. A vast number of studies examined migration with a theoretical<sup>12</sup> as well as empirical focus.<sup>13</sup> Policy aspects were increasingly investigated in a comparative light.<sup>14</sup> A virtual consensus emerged in the scientific community, demanding a consistent, long-term immigration policy (Bade, 1994), details of course being controversial.

It was also only in the 1990s that the phenomenon of illegal employment of foreigners became a matter of public interest. The previous public ignorance may have encouraged Harald Lederer, one of the few German scholars concerned with the subject, to make the following – misleading – statement: ‘Illegal Migration is a recent phenomenon in the Federal Republic of Germany appearing in a form worth mentioning only since the early 1990s. Until now there is no research tradition like in the USA, where from the thirties on

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<sup>10</sup> See Mehrländer (1987) for a review of her own three studies between 1966 and 1978.

<sup>11</sup> *E.g.* Deutsches Jugendinstitut, 1987; for a contemporary essay on integration see Schulte, 1998.

<sup>12</sup> See Treibel, 1990; Bös, 1996; Faist, 1993; 1995, and Faist *et al.*, 1996.

<sup>13</sup> See Bischoff and Teubner, 1990.

<sup>14</sup> *E.g.* Luciani *et al.*, 1993; Cornelius *et al.*, 1994; Hailbronner *et al.*, 1997.



a number of studies were prepared, many of those dealing with the quantitative aspect of the phenomenon' (Lederer, 1999b: 90).<sup>15</sup>

However, illegal entry and employment was a phenomenon noticed by the competent offices as early as the 1960s: in Berlin for instance the Senator of Interior presented in 1970 a 'report on the problems connected with the employment of foreigners and the illegal sojourn of foreigners in Berlin' (Schwarz, 1992: 122). But only after 1973 did illegal immigration and illegal employment of foreigners become a matter of some public interest, when the declaration of the recruitment stop prevented further inflow and initial employment of foreigners. Before, it had been common practice for foreigners who had entered the country as tourists and found a job, to be granted work and residence permits. In the period of full employment and economic boom the employment of foreigners was perceived to be a positive factor for economic performance. The interaction of legal and political developments and administrative implementation in this period was analysed in a study by Dohse (1985) that mainly relied on publications and administrative records. A comprehensive historical account on the employment of foreign workers from 1880-1980 was conducted by Herbert (1986).

After 1973 the perception changed: Trade unions raised the problem of illegal employment of foreigners, most of whom came from Turkey (Diamant, 1973; Treichler, 1999). According to a report by Berthold Huber, the federal Minister of the Economy, in 1974 about 230,000 foreigners were employed illegally. Huber noted that the legislation was tightened with regard to the illegal employment of aliens (Huber, 1975). But all in all the subject of illegal employment of foreigners did not attract much attention. The majority of the illegally employed foreigners came from the former recruitment countries (Fiedler, 1976; Remmel, 1978). The presence of illegally employed foreigners was only sporadically discussed, mostly from a social policy perspective (Ucar, 1983). In the year 1983 the precarious situation of illegally employed Turks was depicted forcefully in a well-known book entitled '*Ganz unten*' (At the Very Bottom) by the journalist Günther Wallraff.

During the 1980s, illegal employment took place in the construction industry, agriculture and other sectors of the labour market which were unattractive to the domestic labour force. Despite the prohibition on unauthorised entry and employment of foreigners, the authorities developed a quite pragmatic stance for certain sectors. Disregarding federal regulations, the employment of foreigners in wine growing areas during the vintage was legalised in an ad hoc manner by the *Laender* authorities (Schwarz, personal communication). Since the late 1970s there has been a moderate (relative to today's figures), but gradually increasing inflow of temporary Polish labour migrants looking for a job in the shadow economy. Additionally, the inflow of Polish citizens admitted as refugees led to an increase in the informal labour force when these refugees did not receive work permits. In 1985 a report of the Berlin Senate stated that a considerable number of Polish immigrants were engaged in the shadow economy.

Beginning in the early 1980s, the Federal Labour Office gradually built up resources to combat illegal employment by foreign nationals, benefit fraud and social security tax

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<sup>15</sup> 'Illegale Migration ist ein junges Phänomen in der Bundesrepublik Deutschland, das erst seit Beginn der 90er Jahre in nennenswerter Weise auftritt. Bisher existiert keinerlei Forschungstradition wie in den USA, wo zahlreiche Studien, auch zu den Quantitäten des Phänomens, seit den 30er Jahren erstellt wurden' (Leder, 1998: 90).

evasion by Germans and legal residents. As early as 1988, police in Berlin founded a specialised task force ‘Poland’ combating illegal employment and trade of Polish citizens (Cyrus, 1995). But as the statement by Harald Lederer indicated, only after the reunification of the two Germanies did illegal employment of foreigners begin to be regarded as a common feature of contemporary labour markets in the public discourse. After migration barriers had dissolved with the collapse of the socialist state order, the image of the ‘illegal’ started a career in public discourse. It became common to label unwanted inflows of foreigners as ‘illegal’: trade unions suspected contract workers from the CEE of being a variant of illegal employment. Rejected asylum seekers were accused of being ‘illegal’ including those protected by the Geneva Convention. The ‘illegals’ were accused of contributing to unemployment, criminality and destabilisation of the state. In short: The ‘illegals’ became scapegoats, a legitimisation for policy failures and a target for policy measures. Even the Federal Intelligence Service, more or less divested of a serious role after the collapse of state communism, recently discovered illegal immigration as a new arena of activity. Since 1990 the institutions concerned with the enforcement of migration policy have drawn a one-sided picture of illegal immigration as a serious threat to internal security. The debate was and is fuelled by a wide range of official press releases and declarations on increasing criminality and organised crime.<sup>16</sup> Recently the Federal Border Police as well as the Ministry of Interior prepared reports on illegal immigration only for internal use. We present some official information in the following table:

**Table 15: Official data on illegal entry, illegal sojourns and irregular employment**

<b>Year</b>	<b>Illegal entrants at the German borders (border police data)</b>	<b>Foreign suspects illegally in Germany (police and border police data)</b>	<b>Cases of illegal employment of foreigners (employers and employees) in Western Germany</b>
1990	7,152	47,585	28,800
1991	23,587	43,455	37,300
1992	44,949	58,452	44,795
1993	54,298	88,148	69,718
1994	31,065	90,380	71,576
1995	29,604	97,007	71,092
1996	27,024	137,232	75,661
1997	35,205	138,146	- / -
1998	40,201		
1999	37,789		

Source: 1990 - 1995: Lederer, 1997, 1996 - 1997: Lederer: personal information, 1999: Innenpolitik, I/2000: 8.

Figures like these were fed into the public discourse and contributed to increasing concern about illegal immigration. Careful interpretation shows the phenomenon of residence without proper status did probably rise but rates of increase were much more influenced by organisational aspects (Vogel, 1999). Even if the figures document an increase in the numbers of detected cases of ‘illegality’, the interpretation has to take into account that in

<sup>16</sup> Severin 1997, Kanther 1997; several issues of *Innenpolitik*, the official magazine of the Federal Ministry of Interior; Bundesministerium für Arbeit und Sozialordnung 1997 a and b, Bundesregierung 1996, Franke and Wanka 1989 or Lüpke 1997. Exceptions are Berliner Fachkommission 1997 and the publications of the several Commissioners of Foreigners’ Affairs of the Federal Republic, the Laender and the communities, see Karpf, 1997, Federal Commissioner, 1999b or Commissioner of Berlin Senat, 1995.

the given period the control personnel was enhanced significantly and the competences of control agencies were extended. Additionally, there is an overlap between data on illegal entries and foreign suspects, while labour market data usually does not include detected illegals.

In accordance with this development the figures on deportation of aliens show a consistent desire on the part of the authorities to implement the restrictive non-immigration policy.

**Table 16: Number of deported foreigners**

	<b>Total of deportations</b>	<b>Of which rejected asylum seekers</b>
1988	7,500	2,800
1989	8,200	3,300
1990	10,900	5,900
1991	13,700	8,200
1992	19,800	10,800
1993	47,100	36,200
1994	53,000	36,200
1995	36,500	21,500
1996	32,100	14,484

Source: BMI, 1997: 38-39.

On the other hand, immigrant organisations, human rights groups and welfare organisations engage in the protection of refugees and immigrants without status. In a recent report, the Federal Government Commissioner for the Foreigners' Issue (1999b) explicitly welcomed the debate on the human rights dimension. However, in spite of the public interest, a more general scientific preoccupation with illegal immigration began, following a slight delay, only in the mid-1990s. Most of the early essays speculated more or less sophisticatedly either on the threat of illegal immigration as a consequence of the new geopolitical situation or on the consequences of the restrictionist policy measures for the protection of refugees (Nuscheler, 1995, Höfling-Semnar, 1995). Only few explorative studies, focusing on specific groups, engaged in a more empirically-oriented investigation and reasoning about this subject.<sup>17</sup> Meanwhile a number of articles dealt with illegal immigration to Germany focusing on different aspects such as: judicial interpretation;<sup>18</sup> economic reasoning;<sup>19</sup> the problems with statistical analysis (Vogel, 1999; Lederer, 1997; 1999b); the institutional structure of the enforcement authorities (Vogel, 1998; 2000a; Dietrich, 1999); the macro-sociological and political science perspective (Müller-Schneider, 2000); micro- and meso-sociological aspects (Cyrus, 1997; Vogel, 1996a); human rights regime analysis (Höfling-Semnar, 1995; Cyrus, 1999a); the social situation and the demand for social policy;<sup>20</sup> the illegal and irregular employment of foreigners in

<sup>17</sup> Heine-Wiedenmann, 1992; Kienast and Marburger, 1994; Belentschikow, 1994; Cyrus, 1995; Estrella, Jordan and Vogel, 1997; for a general overview of early studies see Vogel, 1999 or Lederer, Nickel, 1997 with a focus on early studies of illegal employment.

<sup>18</sup> McHardy, 1994; Wollenschläger, 1994; Dembski, o.J., Robbers, 1994; Böhning, 1997; Hildebrand, 1998; Eichenhofer, 1999

<sup>19</sup> Tichy, 1990; Schumacher, 1995; Jahn, 1997; 1999; Jahn and Straubhaar, 1997.

<sup>20</sup> On the social situation, see Alt, 1999; AWO, o.J.; Bühle, 1996; Caritas, 1995; Eritt, 1996; Erzbischöfliches Ordinariat, 1997; 2000; Schäfers, 1995; Scheurer, 1991; Schirmacher *et al*, 1988; on the demands for social policy, see Cyrus, 1998, Erzbischöfliches Ordinariat, 1997; Röseler and Vogel, 1993; Vogel, 1996b; 1996c; 1996d.

Germany with a focus on the new migration from Poland;<sup>21</sup> and the situation of refugees after the amendment to the constitution.<sup>22</sup>

However, regarding empirical studies of illegal immigration in Germany, only two more comprehensive research projects have been carried out. The book by Alt (1999) on undocumented migrants in Leipzig presents the results of two years' field research. Alt interviewed 48 unauthorised migrants of different nationality with a wide range of status careers, ranging from absconded asylum seeker to 'false' tourists and individuals without any official documents. Additionally, Alt conducted interviews with experts, supporters and officers concerned with the enforcement of migration laws. He provocatively stated that the social arrangement of illegality seems to be profitable for all parties involved. Even the state seems to tolerate a particular amount of illegal foreign residents for the sake of moderate costs in some economic sectors. Alt discovered a certain feeling of unease among some officers interviewed in the enforcement agencies who found their work neither effective nor fair because, once detected, migrants faced deportation while employers got away with no or minimal sanctions. As in other studies, Alt found that the situation of undocumented migrants was characterised by an unhealthy anxiety over being detected and a significant risk of being cheated and/or blackmailed. A considerable vulnerability exists in the areas of basic human rights, such as health care or education of children, as well as in civil rights affairs (conflict with employers or blackmailers). Alt stated that the contemporary institutional structure of migration policy is not only inadequate to prevent illegal immigration but a factor that contributes to the unprotected situation of unauthorised immigrants.

The second larger empirical study on illegal employment and the interaction of immigrants and authorities was finished recently by Czarina Wilpert (1998 and 1999) as the German part of an EU-sponsored research project (MIGRINF). It examines new migration and informal labour markets. Wilpert evaluated the views of experts in control agencies and with the so-called 'new migrants', of Polish, Vietnamese and Turkish citizenship, engaged in the informal economy. The study states that the general trend towards the 'informalisation' of labour markets – with deregulation, the growth of part-time and temporary employment, the growth of private employment agencies, the casualisation of employment and the increase in unemployment – had changed the structural context for the employment of foreigners. Wilpert observes an interaction between the decline of manual labour in heavy industry and the replacement of more expensive German workers and foreigners from old-migration countries with subcontracted foreign, seasonal or undocumented foreign workers. Of interest is the estimate that enforcement activities of the police focus especially on illegal employment of foreigners, illegal entry, smuggling of foreigners and organised crime which includes the falsification of documents and the involvement of foreign nationals in these crimes. However the description of police officers reveals a kind of frustration when suspected employers once caught can – according to the policemen's view – still continue with their unlawful activities.

Apart from these broad studies on illegal immigration and informal labour markets which only touch upon the organisational culture of enforcement agencies, there is a small in-depth study by Eidmann (1994). Using participant observation, Eidmann explored the interaction and communication between the employees of the local aliens' office in Bremen and foreign applicants. The employees routinely acted in accordance with the

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<sup>21</sup> Alt, 1999; Butscher, 1996; Cyrus, 1999b; Irek, 1998; Höhner, 1997; Blaschke, 1998.

<sup>22</sup> Ehrlich, 1998; FFM, 1998; Lange, 1997; Uihlein, 1993; 1994; UNHCR, 1995.

provisions of the Aliens Act even in cases when the officers did not agree with every aspect of the content and the procedure. In their performance the officers restricted themselves to the examination of the areas relevant for the decision-making process for granting or refusing the relevant ‘stamp’. The officers in charge did not feel obliged to explain the clients’ rights. On the other hand the employees viewed the applicants with considerable distrust. Administrative staff in the aliens authorities acted under the general suspicion that applicants would not hesitate to deceive in cases the requirements were not met.

In conclusion, although during the last decade there has been an increasing interest in and proliferation of studies on migration, the organisational culture of the administrative offices involved in the policy and the interaction between immigrants and authorities or social services remain largely unexplored.

## **7. Final remarks**

Since World War II, there has consistently been a lot of immigration to Germany, and it has nearly always been perceived, in the public discourse, as too much. A large part of this immigration was German or of German origin and never framed in terms of ‘immigration’. Large inflows of foreign nationals have consistently been framed as a reaction to exceptional labour market or political needs, and policies have always been directed at retaining the temporary nature of labour and refugee flows. Although Germany is indeed characterised by substantive inflows *and* outflows, these policies have not been successful in the sense that they did not prevent the long-term residence of populations of non-German origin. With its emphasis on encouraging return and even enforcement, integration efforts started late in the history of individual migration, when individual immigrants and their children born in Germany had already undergone the experience of not-belonging, deterrence and exclusion for many years. At the same time, expectations concerning the degree of assimilation to some sort of German standard are high. There is, nonetheless, a political consensus that successful integration policies for long-term residents depend on enforcement efforts against unintended prolongation of stay and illegal residence.

The self-perception of Germany as a non-immigration country and the strength of Germanness despite the presence of large foreign populations are reflected in the institutional structure that deals with migration-related aspects. Furthermore, this structure is characterised by the nature of the German federal system: it is decentralised, fragmented, co-operative and enforcement-minded.

The high importance of some sort of German identity does not mean that this is a straightforward concept. For people in the Federal Republic, the suppression of and debate on the guilt for atrocities during the Nazi-regime was as constituent for their Germanness as their identification with the so-called economic miracle – two experiences which people in the GDR did not share in the same way, since they were officially encouraged to identify with resistance against national socialism, and experienced only moderate post-war growth in comparison with their Western neighbour. Today, questions of German identity are much more influenced by German unification than by immigration from abroad.

This legacy of the past will influence the way in which German authorities cope with future challenges in the field of migration which are common to all European states, and particularly, the way in which it will implement common European standards on immigration policies which are due in the coming decade.

This project aims to contribute to this debate by highlighting the role that organisational culture and identity processes play in the implementation of immigration policy in Germany and also across the EU, identifying commonalities and differences. The German case is of particular interest because of the administrative complexities of the system, outlined in this report, which are largely due to the federal structure of the country but which also reflect a specific set of administrative and organisational culture(s).

# **Chapter 3: Migration Pathways: A Historic, Demographic and Policy Review of the Greek Case**

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## **1. Introduction**

This report offers a short account of the immigrant presence in the history, demographic constitution of the population, and policy of Greek society. Through an analysis of the above three issues, this report aims to provide a comprehensive understanding of migration, and of inclusion and exclusion pathways.

In Part One, the emphasis is upon changes which have influenced migration flows and have constructed a variety of cultural and political paths towards the spatial categorisation of immigrant workers. The analysis is centred on two basic benchmarks of Greek socio-economic development. These are: the influence of regional economic and military interests on the movement of immigrant workers into Greece; and the impact of globalisation on the construction of new migration pathways into the country.

In Part Two, we are concerned with the demographic approach of immigrants. Recent changes have produced a complex set of immigrant identification and self-ascription, and have cast doubt on the use of existing concepts in the process of categorisation. These changes are related to globalised migration movements, the establishment of new immigrant groups, and the role which subjective experience plays in the formulation of immigrant social networks.

In the final part of this short report, our analysis is centred on the response of the Greek state towards immigrant groups, which is achieved through the creation of a legal system that sets boundaries between incoming people and the host group.

## **2. Historical overview of migration flows in Greece**

Migration has always been part of a wider system of economic and cultural organisation. As will be shown below, the political and economic existence of the Greek village system (horio) and of the Greek Ethnos-state, have developed around a system of mobility of people, of economic inclusiveness and of political exclusion of migrants. Both realities have long existed in Greek history, and remind one of the central role migration has played in Greece, and the importance of this phenomenon for a diachronic as well a synchronic analysis (Braudel, 1997).

Each historic period, however, has been characterised by different types of migration and by different pathways towards the establishment of inclusion and exclusion of people, resulting in a mosaic of mobility-immobility. Part of such a mosaic is the twentieth century

labour migration which, according to most critical reviews of Greece's socio-economic history, occupies, together with family organisation, a major part in the development of an agricultural economy and of informal activity in the manufacturing and service sectors.

This part, therefore, will focus upon the main trends, characteristics, and complexities of migration flows in Greece and, in particular, of labour migration. With this aim in mind, this section will analyse the following: the early labour-migratory patterns in Greece and the political paths followed towards inclusion-exclusion of migrants; and the more recent (post 1970s) labour flows into the country. The brief review of the above issues will serve as our sociological platform to launch a further explanation of today's migration and socio-cultural pathways in order to further explore its formal and informal regulation.

People have always migrated in order to avoid natural disasters, wars, poverty, to join members of their family or to exchange ideas and goods with people of other places (Brown, 1995). In the Mediterranean, however, one form of migration has always occupied a central role in historical and sociological analyses, namely, labour migration. It has a special place in the understanding of society's organisation and regulation, because apart from the fundamental role it plays in human livelihood, it also represents a stable or unstable source of group or self-identity.

Although the history of labour migration has not been documented in detail and much of it is incomplete even today, it has played a central role in the development of an agricultural and an informal economy in the country; for the deployment of the *vocabulary* of group and individual work; and has constituted the basis upon which much of the *Greek identity* has been constructed.

The Greek vision of labour migration, at least in its early existence, echoes familiar stories of crossing difficult terrains on foot, as part of either transhumance, nomadic systems, or of craft-associations based on the village economy. The Balkan region, according to the above, has always been perceived as a vast area of cultural-economic pathways. In contrast to the idea of cultural zones analysed by Braudel (1995), cultural-economic pathways represent a 'reality' of social interaction based upon the exchange and the transmission of goods and ideas through travelling (Rokou, 1988). In the pre-modern history of Greece, occupation, household economy and community bonds existed as a vast network of communication process, that is central for the production and reproduction of values, daily-life behaviour, and the enculturation of the young into the social environment of the village-community (Amira and Alimpranti, 1988). Travelling, the crossing of territories, has probably symbolised villagers' autonomy or semi-independence from the authority of the millets (administrative provinces under the Ottoman empire), and from geographic or economic isolation. Shepherds, cultivators of land, travelling merchants probably constructed ways through which administrative control, dependence upon the locale and economic scarcity, were all dealt with through diversity, mobility and inter-exchange. In contrast to this, cartographers have often followed the migrants' trail, in order to map the spatial limits of a territory. But unlike cartographers, labourers across the Balkan area have often crossed places and terrains following a different understanding of the 'limits' of a territory, thus creating a system of organisation that was centred around the ritual power of exchange, community, and of social relations, and embedded in the ability to cross and become part of such a ritual power system. The 'limits' of a territory, were often identified more as part of an account of economic and cultural existence of the community and thus of self, rather than as part of a geographical-administrative system of regulation. An



opposed vision of migration is reflected in the cultural and administrative control of immigrants during the 1970s and 1980s.

## **2.1 Migration during 1970-1980s: the turning of Greece into a ‘Germany of the South’**

According to the previous analysis, there have been distinct periods in the history of migration in Greece. The first period is characterised by an internal cultural diversity of people at the local village-community system of organisation. Labour migration as an aspect of transhuman, nomadic life, existed within a broader multicultural system of regulation under the Ottoman Empire. The development of merchant capitalism in the Mediterranean region and the development of an independence movement, have both played a central role in the regulation of migration and the construction of national Greek identity through the transformation of the division of labour.

On the one hand, the presence of internal cultural and economic diversity was seen as a challenge to the then newly established territorial nationalism, and was dealt with vigorously at both cultural and political levels. Thus, social institutions became responsible for a forceful socialisation of the remaining ethno-regional communities, resulting either in their assimilation or their mass exodus.

On the other hand, territorial nationalism and the need to establish a system of cultural and economic capitalism posed a challenge to the existing ethnic or community-village division of labour. Most of the late nineteenth and early twentieth century migrants, refugees, and ethnic minorities, were directed to perform tasks in a manner that either semi-proletarianised their labour (as was the case with ethnic refugees from Asia-Minor in Athens) or led to the construction of a peripheral ethnic labour force secluded in marginalised ghetto-like areas (as was the case with ethnic communities in the north of Greece). The transformation of farmers into tenant-farmers and the development of ethnic businesses, that provided employment to otherwise economically excluded minorities, are valuable examples that demonstrated the development of *new pathways* of cultural and of economic regulation.

For most of the twentieth century inclusiveness-exclusion, have followed a pathway that deliberately systematised a cultural division of labour and the production of popular images of Greek identity, based upon a build-up of mythical-territorial and religious sentiments, and upon negations of what constitutes Greek identity. The images of other ethnicities as ‘less civilised’ and as threatening the survival of ‘Greekness’, and the systematic praise of a patriarchal household economy based upon the ideals of mercantilism, point towards a socio-economic development that was rooted both in traditionalism and the spirit of nationalist strife. The rule of the territorial bound nation (Patris), religion, and family, together with the hegemonic rule of the enterprising motives of a merchant class, produced cultural and economic barriers in the country, and a labour market that developed out of a segmented and informal labour force. The mythical notions of the successful returned migrant who invested back in his village, or of the self-made businessman and of the household-man who controls his family and production unit (noikokyraios), are only some of the sentiments that most Greeks have adhered to since the end of World War II (Dimen, 1986). Hard work, an ascetic life, and respect for traditions,

have not only provided part of the internal cultural identity, but have also proven to be powerful identity -links for the Greek diaspora abroad (Ventoura, 1999).

During the second half of the twentieth century, there was a new turn in migration flows in Greece and in most southern European countries. Due to East-West conflicting relations along the border-lines of Western Europe, and anti-colonial movements in most Asian and African countries, there was an increase in the number of refugees seeking asylum in Europe (Ventoura, 1994). At the same time, a number of political refugees (i.e. of the Greek Civil War in the aftermath of World War II) were allowed in, following the end of the 1967-1974 military dictatorship, as part of a political amnesty given by the then liberal government. Together with political refugees, a large number of Greek economic migrants returned to Greece from the US, Australia and Europe, as a result of the country's economic development and due to the tightening of policies towards migration, which most Western countries started to implement. A number of restrictions on family unification, the process of de-industrialisation, and an increase in xenophobia in the UK, Germany and Belgium, all contributed to the return of many of the Greek immigrants.

Since the 1970s, Greece together with Portugal, Italy, and other southern European countries, has experienced a major decrease in the number of people that emigrated, together with an increase in the flow of returned migrants (King, 2000; Triandafyllidou, 2000a).

. . . First there was a net emigration of nearly a million Greeks, during the period 1945-73. They left for economic, family and political reasons; over half of them went to European countries, especially West Germany (450,000) and the rest mainly to the traditional immigration countries of the United States, Canada, and Australia. Secondly, there was an important return migration during 1974-85, when almost half of the Greeks in Europe repatriated. Towards the end of this period however, both emigration from and return migration to Greece reached insignificant levels and net migration moved close to zero. . . (Fakiolas, 2000: 58).

According to Fakiolas (2000), as well as a number of earlier studies on migration in Greece, (Nikolinakos, 1973), the historic development of mobility in the country took a new turn, resulting in the return of Greek refugees and economic migrants, and the rise in the flow of asylum seekers and economic immigrants from Eastern Europe, South-East Asia and the Maghreb countries.

In relation to the second issue, most studies seem to suggest that such a turnaround from emigration to immigration is the result of both exogenous and endogenous factors (Papageorgiou, 1973). Apart from what was argued earlier, (i.e. Greece's economic development), King (2000) suggests that during the 1970s there were a number of structural reasons that explain Greece's transformation into a country of immigration. In his latest work, his thesis develops along the following parameters, explaining the factors which may be responsible for the above transition.

First, the recognition of the role played by the tightening of immigration policies in Western European countries, in the *diversion* of immigrants from northern to southern Europe, and in particular to Greece. Secondly, the particular morphology of Greece and Italy's borders makes control of migration flows extremely difficult, if not impossible. Thirdly, the long tradition of Greece's economic development based on shipping, commerce and tourism, was always dependent upon global links between sea ports, cities,

and countries, attracting visitors and making it difficult to facilitate an immigration policy which is opposed to the economic interests of the country.

Fourthly, despite the fact that Greece has not recently been a colonising nation, colonisation has played a vital role in today's immigration, through Greece's dependence upon the economic and political networks of Western advanced capitalist countries. King concentrates mostly on the traditional links between colonising and colonised countries, such as those that developed between Spain and Latin America for example. However, Greece's role as an economic satellite between the colonies and the metropolitan centres of the West, has proved a powerful connecting agency (i.e. as King notes for the role of Catholicism in the case of Portugal, and Spain) between people of distant places.

The build up of trade links between colonies, Greece, and the colonising countries, has not only allowed generations of people to familiarise themselves with life in Greece, but has also resulted in the development of market relations and the exchange of goods and services, and the establishment of Greek communities in African or Asian colonies. An illustration of one such case is the analysis of the Greek community in Ethiopia and the recent arrival of Eritrean economic migrants in Athens (Petronoti, 1995; Petronoti and Zarkia, 1998).

Apart from the case of Eritreans, the presence of Egyptians in Greece and the establishment of a Catholic community of Italian origin in the Aegean islands, do point towards rather complex historic interlinkages between immigrants and a colonial past (Glavanis, 2000). Such historic interlinkages were not only important for the development of trade between countries of the Mediterranean basin, and especially between the Maghreb countries and Greece, but have also followed the development of Western industrial systems of production and consumption. This was the case with the US and British industrial interests in the Asian sub-continent. These interests have resulted in the development of an international network of workers and industries, which connected people of the Iranian Gulf, Turkey, Vosporous, and Greece into a vast chain of energy extraction, transportation, and marketing networks. The operation of such networks became possible due to the economic and political dependence of the above countries on the US-British interests, and on the transport and exchange of industrial workers between various industrial posts (Psimmenos, 1997).

Other strong connecting agencies have been: the linguistic-religious links between Russian-Greek, Kazakhstan-Greek and Pontic-Greek communities with Greece (Kassimati, 1998); the political links of people from the area of Macedonia; and the cultural links of the people of Epirus.

Fifthly, according to King, during the 1970s, there was a remarkable economic development that has resulted in a further decrease of income differences between north and south Europe, making it no longer necessary for Greeks and other southern European workers to emigrate in order to sustain their livelihood.

. . . Instead the development gap and the migration frontier now run east-west through the Mediterranean from Istanbul to the straits of Gibraltar, passing south of Cyprus, Crete, Sicily and Sardinia. This is Europe's *Rio Grande* (Montanari and Cortese, 1993; King, 1998) . . . (King, 2000: 10).

The 'European kind' of development in the case of Greece, seems to have been instigated less by the modernisation of economic systems and the further development of a welfare state, and more by Greece's entry into the European Economic Community in the 1970s, and the latter's political assurances that the country would be shielded from military coups or military interventions. It was probably 'political stability' and 'economic prosperity' plans, which resulted in the return of Greek migrants (Mousourou, 1991). Greece's membership of the EC has also played a role in attracting migrants from other countries, who, during the past searched for political and economic refuge in the liberal countries of central or northern Europe.

Sixthly, the existence of a large informal economy, together with the traditional existence of a large service sector, have led to labour migration towards Greece which operates according to internal demands for seasonal-flexible labour and is complementary to the economic development of northern Europe (Iosifides and King, 1998). The search for a numerically-flexible labour force started in the 1970s, and according to the then (1974) academic studies on migration, Greece constructed a 'system' of labour force recruitment as a response to national and international economic restructuring.

. . . The first influxes of migrants came to Greece as recruited migrant workers at the suggestion of Greek Federation of Industries (SEB) which noted that some sectors of the economy suffered labour shortages that had developed mainly in chemical industries but also in agriculture, in clothing and metal industries. Successive governments followed the above suggestion and allowed immigrants to enter and work according to labour market needs. In 1974-1975, some 20,000 foreign workers arrived in Greece from Morocco, Egypt, Philippines, Pakistan and Ethiopia. The Federation of Greek Industries saw a controlled influx . . . as an essential and necessary element in order to increase productivity and achieve faster economic growth in Greece. On the other hand, the governmental support for a large influx of returnees from Western European countries was not seen as an appropriate policy because of the difference of wage levels between Greece and the other countries and it was against the interests of employers who needed a cheap and unskilled labour force. . . (Petraou, 1999: 92).

The contemporary period of labour migration towards Greece, as Petraou points out, began with the country's economic adjustment to regional industrial activity. The increased supply of workers from the countries of the Maghreb was seen as a solution to industrial profit maximisation. It is questionable however, whether the foundations of labour migration to Greece have only been primarily economic. According to Patiniotis (1990), Greece's dependent development, indirectly promoted a regional labour migration that encouraged both the outward migration of Greek workers and the supply of a 'cheap' labour force from the African continent.<sup>23</sup> Labour shortages seemed for the Greek authorities not a problem but rather a 'solution' to a growing population of under-employed, unemployed but skilled indigenous urban labour, which if employed, would complicate the existing conditions. The management of the indigenous labour force corresponded, at the time (the 1970s), to the influx of a labour force from North Africa, using the latter as a lever to continue with an industry unwilling to invest in economic restructuring, and also with a government unwilling to adjust to democratic and welfare demands.

For the political authorities, and especially according to the then vice-president of the Greek military government (in 1971), the economic and political solution to Greece's structural problems was the encouragement and use of a labour force from other countries,

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<sup>23</sup> The president of the state Bank for Investments (1971) announced that 'Greece will soon become the Germany of the South' (quotation from *Der Spiegel* 49:124; see Patiniotis, 1990: 257).

as a way to achieve higher profits and as a way to discipline the indigenous working population. The latter was probably partially achieved through labour policies that imposed a wage freeze on industry, the establishment of an immigration policy that did not allow immigrants to send remittances back to their country, and a continuous regulation of inward and outward migration from the country.<sup>24</sup>

## 2.2. Contemporary migration flows: the rise of global networks

Since 1990, Greece's immigrant population has risen from 20,000 people to almost half a million according to estimates. For the authorities, the documented (i.e. those that have applied for a permit to work) migrant population is estimated (in 1998) to be almost 400,000 (i.e. the manpower organisation has recorded 369,629 applications). There are however estimates for both documented and undocumented populations that exceed the above figure (see the demographic analysis that follows). For Lianos *et al* (1995), the figure for the immigrant population in the country was estimated (i.e. for the period 1995-1996) to be approaching the level of 2%-3% of the indigenous economically active population.<sup>25</sup> On the other hand, Fakiolas (1997) estimates that the immigrant population varies according to the type of labour it performs and according to demand for seasonal labour by the agricultural and fishing industries. He estimates that over 400,000 migrant labourers live and work in the country and this estimate fluctuates by 10% to 15% during the productive seasons of the abovementioned industries.

The majority of the migrant labour force (documented) is from Albania, and it constitutes almost 80% of incoming migrants. Next in line, in terms of ethnic origin and of representation in Greece's immigrant population, come Egyptian labourers, Polish, Iraqi, Iranian, Pakistan, Syrian, Jordanian, Turkish, Filipino and Lebanese migrants (Lianos, 1995; Markova, Sarris, 1997).

There have been vigorous debates about the estimated size of the migrant labour force in the country, part of which is reflected in the discussion that follows (see section two). However, part of the debate worthy of further investigation, is the discussion of the technological, organisational, and cultural changes, and how they transform work, labour experiences and migrant flows (Brown, 1999).

During the 1970s, the central focus was the development of a secondary labour market that resulted from bilateral agreements between Greece and the Maghreb countries. The country's initial rationale was to increase capital returns through the use of cheap unskilled labour, and to discipline the indigenous labour force. This rationale, although explaining Greece's business operations, is nevertheless insufficient to explain today's migration pathways. This is because it is based mostly on a microscopic understanding of migration, on a merely structural understanding of migratory flows, and finally on an unsynchronic relation between the migrants country of origin and Greece.

In relation to the first, since Greece's full entry into the EC, a number of important changes have taken place that have further transformed the economic and social structure of its

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<sup>24</sup> The military government at the time encouraged the inward migration of unskilled labourers from urban to rural provinces, and at the same time the outward migration of labourers from ethnically populated areas of Northern Greece (i.e. Thrace).

<sup>25</sup> See also the official report by SOPEMI/OECD 1997.

employment and economic activity. The European Community's plans for a global economic and political harmonisation and liberalisation processes have moreover integrated further (though not homogenised) Greece's organisation with the rest of Europe, resulting in the unification of production and management systems (Psimmenos, 1997).

A necessary condition for the implementation of the above is the establishment of a flexible system of organisation of work that is further diversified and able to respond and to correspond to international market flows. Migration towards Greece in this sense, is conceptualised as part of an international migration, that responds to both micro-scopic regional or bilateral agreements, and to macro-scopic factors, that push the country towards integration and deregulation of economic activity. If the above holds true, then it follows that Greece's demand for a reserve pool of cheap labour from countries other than those in the EC, is connected also with a global restructuring. This demand is satisfied by a labour market and a labour force that is flexible in responding to global market necessities, and recognises international rather than national or regional policies of labour or capital regulation. To achieve this, international inter-connected transportation-communication systems have developed, that provide easy access and geographical links between migrants and the receiving countries (Massey, 1990).

The development of a global migration industry (King, 2000) that transfers workers to various destinations and to various industries, seems to illuminate part of today's migration to Greece. The rise in the number of undocumented migrants, and the increase in the trafficking of migrant women and children into the country, is a reflection of today's international dimension of migration (Campani, 1993; Phizacklea, 1997). Another aspect of this global migration movement is the emergence of Athens as a place that maximises capital restructuring. This happens through its global networks of transport and communication, its expanding activity in the informal provision of goods and services, and in the ability to maintain a large number of hiring-agencies for undocumented or low-paid migrant labour (Psimmenos, 1995; Mingione, Magatti, 1994).

. . . whilst Athens is far from being a global city in the Sassen sense, it does possess a number of features which align it with the trends described by Sassen for cities like New York and London. Indeed we believe that, in some respects, Athens can be considered as a prototype for the trends towards informalization of work and the increased social inequality and restructuring of consumption into high-income and very low-income strata which are a central part of Sassen's analysis. In making, this suggestion we are endorsing, but with different evidence, Leontidou's (1993) belief that Mediterranean cities have long contained powerful 'post modern' characteristics which prefigured the post-Fordist restructuring of large industrial cities in the Anglo-American realm . . . (Iosifides and King, 1998).

In relation to the second issue, contemporary migratory patterns into Greece show that there is a qualitative change from the experience of migration during the 1970-1980s. The increase in the numbers of female migrants point towards an understanding that Greece is experiencing a new type of migration, female migration. Apart from the structural reasons which have been responsible for the large concentration of female migrants in Greece (i.e. personal services, domestic work)<sup>26</sup> female migration has also been analysed as a socio-cultural metaphor of gender divisions in the place of origin (Phizacklea, 1997; Anthias, 2000).

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<sup>26</sup> Personal services are services that relate to: sexual, entertaining, caring activities.

. . . There is a case for looking at migration in terms of a threefold positioning of social actors: within the relations of the homeland, within the relations of the country of migration and within their own ethnic communities and networks . . . (Anthias, 2000: 18).

The development in the country, of labour intensive industries, especially in the areas of tourism, agricultural activity and the household economy (Lazaridis, Theotoky, 1999), has led to an increase in the use of female labourers. It is also becoming increasingly clear, that the use and transfer of female labourers in the country, is also related to gender divisions in the place of origin. Following the above, Anderson and Phizacklea (1997), propose that female migrants should be seen as agents. The use of migration to 'escape' from patriarchy, poverty and social discrimination at home, is presented as an alternative approach to the existing structural and male-oriented understandings of migration. Such an approach contributes towards a rather complex, multi-diversified explanation of migration that reflects both structural parameters and everyday experiences which migrant women attach to their presence in Greece (Lazaridis and Psimmenos, 2000). The latter are essential for the understanding of migration not only as a geographical movement of people, but also as a class, gender, and ethnic specific relation (Psimmenos, 2000).

Finally, international migration in a global environment shows that ignoring the links between the migrants' place of origin and the receiving countries is not a *scenario* that can easily explain Greece's immigration flows. Global restructuring, which both Greece and countries of the ex-socialist Europe are experiencing, seems to enhance rather than reduce emigration from the latter. This is also due to economic and cultural destabilising factors present in the processes of integration and flexibility.<sup>27</sup> Although market-oriented policies are usually seen by academics as factors influencing the decision of groups of people to leave their place, and at the other end, a group of industrialists to receive them, socio-cultural factors are usually ignored or devalued. For example, the development of a consumer-oriented culture across the whole of Europe has been central to the understanding of migration from the Balkan region towards Greece. This has been the case with migrant labourers from Bulgaria and Poland (Markova, Sarris, 1997; Romaniszyn, 2000). Following the above, and placing at the centre of attention Appadurai's global cultural theorisation, Romaniszyn argues that consumption offers a new dimension of migration that both challenges push-pull theories and is critical towards the Marxist-structural political economy of migration.

. . . consumption theories allow for further development of the idea already present in the literature on migration of 'the culture of migration' (Gmelch, 1987; Rocha-Trinidad, 1993). The establishment of local, distinctive standards of consumption along with a strong consumption pressure 'puts into motion' those who are not able to meet these standards. This creates the migration drive . . . Secondly, consumption theories allow for a deeper understanding of migration incentives. Driven by economic necessity, labour migrants nevertheless adopt different strategies with respect to 'the mode of spending' their savings which can be explained with reference to consumption choices and obligations . . . (Romaniszyn, 2000: 139-40).

In addition to the understanding that consumption plays a central role in migration, Romaniszyn, and Massey (1990) explain that international flows of people are also caused by what Myrdal (1957) called the 'circular and cumulative causation of migration'.

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<sup>27</sup> Economic development is usually presented as a stabilising factor of migratory movements. However, the opposite is usually noticed especially if privatisation, deregulation of labour codes, and ethnic tensions are present, see Massey (1990: 64-5), and Psimmenos (1999: 126-7).

. . . Immigration is far more dynamic than standard economic analyses suggest because it tends to feed back on itself through social channels. As a result, immigration becomes progressively independent of the economic conditions that originally caused it . . . Migrant networks are sets of interpersonal ties that link together migrants, former migrants, and non-migrants in origin and destination areas through the bonds of kinship, friendship and shared community origin . . . (Massey, 1990: 68-9).

These 'social channels' in the case of Greece explain the synchronic development of social networks between Pontic people in Greece and in the ex-USSR and between the first inflow (in the 1970s) of Turkish refugees of Kurdish origin with the contemporary Turkish and Iraqi-Kurdish asylum-seeking population in Athens and Patras. Kassimati (1998) shows how social networks are built through ethnic ties that minimise, according to migrants' perspective, the risk of travelling, accommodation, and employment.

. . . (the Pontic-Greeks) are coming to Greece with the certainty that over here friends and relatives will await for them, a society in general that will assist them from the first moment so that they will not live through controversial conditions that migrants usually meet when they face a different . . . reality (referring to a society of different value system) . . . (Kassimati, 1998: 285).

The analysis of immigration flows towards Greece presented here shows that these have to be seen in their wider European (Western and Eastern) and global context, taking into account economic but also social and cultural factors. Thus, the study of Greek immigration policy and of the related implementation process contributes to our understanding of issues that are of European relevance. Furthermore, the analysis of the administrative structure and organisational culture that is peculiar to this country will highlight the implementation dynamics underlying the Greek reality will also contribute, through their comparative analysis, to our knowledge of the EU in general.

### **3. Demographic approach toward the immigrant population**

A fuller understanding of the macro-micro demographic analysis of the immigrant population is important in its own right. Furthermore, as demographers Peach and Brown (1997) suggest, such an understanding is important as a tool for an exegesis of the micro-level sociological processes involved in the construction of immigrant labour flows in the country (Brown, 1997: 1). The limitations, however, of the literature and data on documented and undocumented immigrants, suggest both a need to examine with caution existing theoretical frameworks/typologies used in the country and a need to approach geographic clustering and socio-cultural constructs as highly fluid categories. Thus the presentation of data here, will serve less as a hard-edge categorisation of immigrants (if that ever existed), and more as a way of organising our perception of the main immigrant populations in Greece.

The part here is separated into the following sections: approaching the problem of estimation; territorial distribution of documented/undocumented economic migrants and of ethnic returnees; the presentation of data on sex, age, household size and family unification plans. Most of the data presented here have been collected as part of three different research projects concerned with: the Pontic-Greek population (Kassimati, 1991;1998); undocumented immigrant labour in Athens (Chtouris, Psimmenos, 1997; 1998); and the



demographic analysis of those that have applied for a permit to work in Greece (Kavounidi, 1999).

### **3.1 Approaching the problem of estimation**

Following Brown's (1997) and Peach's (1997) analyses, there are certain conceptual and theoretical issues concerning the macro-micro demographic approach of labour migration to Greece. These issues relate to the presence of a global-regional multi-diverse migration flow, and the organising of population statistics according to ethnicity and citizenship variables.

It is tacitly recognised that since the 1970s Greece, together with most European countries, has experienced the development of a global migration phenomenon. One aspect of this global phenomenon is that it is related not only to specific country-driven bilateral agreements (i.e. as was the case during the 1950s-1970s), but also to regional and ethnic mobilisation (Massey 1990).

Another aspect of this global migration is the widespread complexity of immigrants' cultural, economic and political identity, which in the case of Greece has resulted from a recent flow of migrants from the dissolved Socialist states of the Balkan region.

In addition, stringent immigration laws throughout the EC/EU, and the ending of bilateral labour agreements between Greece and countries outside the EC/EU, have led to an increase in undocumented migration (Soysal, 1994). As a result, population statistics in Greece have difficulty, first in connecting migrants with a specific country, origin, or status (i.e. economic migrants, asylum seekers) (Fakiolas, 1997). Secondly, it is difficult for the statistics to assess migrants' identity, according to individual and group variants, and finally, to quantify migration flows since the majority, at least in the case of Greece, appear to be undocumented, and in transit between Greece and another country, and furthermore, to be temporary migrants.

Due to the above issues, existing typologies used to classify migrant populations appear to be questionable. Either they allow a large segment of migrant groups to slip through the official statistics, and/or they represent migrants by using categories that may be misleading for both authorities and migrants themselves. An example of the latter is the glaring use, by the manpower organisation (1998) in its application forms, of variants like ethnicity and citizenship.

The use of ethnicity, may prove problematic especially if, according to Peach (1997) and Brown (1997), it is related to naturalisation processes. On the one hand, it is considered to be 'contrary to the principles of a secular state' (Brown, 1997: 6) and contrary to EU proposals for the implementation of a civic rule on immigration policy matters.

On the other hand, there is the danger that general classifications of immigrants according to ethnicity, may reduce the accuracy of estimating group identity. This seems more probable especially if, for purposes of classification, a group's identity is subsumed within a broad ethnic group (Brown, 1977: 10). Thus, one could suggest that the classification of people, who identify themselves as Pontic, as Russian by the authorities is highly problematic for both. Then again, the categorisation of domestic workers from the

Philippines as 'Filipino', corresponds, not to an ethnic category, but rather to a colonial stratification system, which subsumes all different ethnic groups from the Philippines under a single ethnic, gender, and class category.

In relation to citizenship, the question is whether or not the place of origin corresponds with that of nationality, and whether it could be considered as a hard-edge category. There is more than one example where the individual and group understanding of citizenship differs, and usually corresponds not with the place of origin, but rather with one's social-ethnic ties and identity. An example here is the different perception of individual and group identity that exists between Albanians who claim to be citizens of FYROM (i.e. due to their social ties to relatives in Skopje); Albanians who claim they are of Greek citizenship because they married a Greek, or a Greek-Albanian (i.e. Vorioepiotes); and Albanians who consider themselves as Greeks of Greek citizenship, because their ancestors were Albanians living in Epirus (i.e. Gekides or Tsamides).

Another problem with citizenship is that it is a rather fluid category-marker of identity and is transferable across generations, depending not upon the place of origin, but rather upon the categorisations authorities in the country of origin and in the host country follow. Accordingly, to the Greek authorities, a child of an Albanian migrant born in Greece is considered to be of Albanian citizenship, and for Albanian authorities, of Greek citizenship. Similarly, an ethnic-Greek from Istanbul is considered Greek in Turkey, and Turkish in Greece. The issue becomes even more complicated for migrants/refugees, coming from regions of ethnic-tension like Kosovo or Chechnya, where the idea of citizenship exists in relation to religious and party affiliation.

### **3.2 Territorial distribution and geographic clustering of documented/undocumented economic immigrants and ethnic returnees**

According to the data presented by Brown (1997), the documented foreign labour population in Greece has increased from 20,000 (1974), to almost 160,000+ (in the 1990s). Together with the estimates on the undocumented labour force (Fakiolas and King, 1996), the total size of the foreign labour force in the country probably exceeds 500,000+ workers. The OECD (1995) has estimated that the number of foreign workers in Greece has increased since the late 1980s, resulting in a ratio of 1 foreign to 12 Greek workers (Phizacklea, 1997:1). Table 3.1, presents a rough estimate of the immigrant population (i.e. both documented and undocumented) as reflected through major studies during the first half of 1990s. As is evident, there is a demographic categorisation of the immigrant population according to ethnic identity, citizenship of country of origin, residential area, and type of job. In relation to territorial distribution-geographic clustering, the general trend especially in the early 1990s has been for migrants to concentrate in Athens and in northern Greece. A similar trend is highlighted in the data collected by the research team of the National Labour Institute (1999) (see 3.2). In relation to the first table, the majority of the immigrant population is concentrated in Metropolitan Athens, with the exception of Greeks from Pontos. In relation to table 3.2, 39.5% of all immigrants, who have applied for a permit to work and live in Greece (i.e. applications that were forwarded and processed by the Manpower organisation during 1<sup>st</sup> January 1998 and 31<sup>st</sup> May 1998), are concentrated in and around the capital city of Athens. According to the analysis of data presented by Kavounidi and Chatzaki (1999), the second largest area of immigrant concentration (7.2%) is the province of Salonica in northern Greece. Next follow the surrounding areas of

Athens (4.8%); the Larisa province (2.5%); Fthiotida (2.3%); Viotia (2.2%); the provinces of Heraklion (2.1%), and of Pella (2%) (Kavounidi, Chatzaki, 1999: 23-24).

The provinces with the least concentration of immigrant population are those of: Evritania (i.e. ninety-one applicants); Evro (0.1%); Rodopi (0.1%); Lefkada (0.1%); and the provinces of Xanthi and Hios with 0.2% respectively.

According to the table below, there is a large concentration of documented female migrants in urban areas and in areas with a strong prevalence of the tertiary sector over any other economic activity. For example, the majority (52.9%) of all female applicants are concentrated (1999) in the provinces of Athens, Crete (i.e. Heraklion, Hania, Lasithi), and in the Aegean (i.e. provinces of Dodecanise and Cyclades).

The large concentration of female migrants in provinces of tourist business activity, supports the theoretical analysis so far, that alongside male migration patterns, there is female migration as part of a new type of migration. This migration is linked to the increase in the tertiarisation of the economy, and in particular to the development of a sexual and domestic servant economy (Anderson and Phizacklea, 1997; Campani, 2000; Psimmenos, 2001). In contrast, according to Kavounidi (1999), a large number of male migrant workers concentrate in areas of agricultural or industrial economic activity. The case study of Polish workers in Northern Greece seems to support the thesis that agricultural and seasonal work, acts as an attracting pool-mechanism for the male migrant labour force (Fakiolas, 1997; Vaiou and Chatzimichalis, 1997).

Table 3.3 reflects the geographic clustering of the migrant labour force in Athens according to citizenship. According to the data presented by the manpower organisation and the National Labour Institute, almost all of Greece's provinces have a substantial number of migrant workers from Albania, Bulgaria, Romania, and the ex-USSR. In particular, the largest concentration of ex-USSR citizens is in Northern Greece, where there are large Pontic and Greek-Russian community settlements from Georgia, Uzbekistan and Kazakhstan. In the Athens region, there is a large concentration of Balkan, ex-USSR citizens and of migrant workers from the Far-East (i.e. Philippines 3.4%), Pakistan (6.2%), Poland (4.7%), Bulgaria (5.2%), Romania (4.8%) and Albania (50.3%).

**Table 3.1 Immigrant-refugee groups in Greece**

<b>Place of Origin</b>	<b>Estimated Number</b>	<b>Residential Areas</b>	<b>Occupation</b>
Albania	200,000-250,000	Metropolitan area of Athens - dispersed in various regions of Greece	Construction Agriculture services
Bulgaria	7-8,000	North Greece - Athens	Domestic services
Ex-U.S.S.R. - Pontic Greeks	~50,000	Macedonia - Athens	street vendors - commerce - services
Poland	~100,000	Macedonia - Athens	Agriculture - services - construction
Russia - Ukraine	~50,000	Salonica - Athens	services - fur industry
Kurdistan (Iraq, Turkey)	~10,000	Patras - Athens	street vendors - unemployed
Pakistan	~5,000-15,000	Athens	shipyards - dockworkers

Philippines, Thailand	~40-60,000	Athens	domestic services
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Source: Chtouris, Psimmenos, 1997: 18

**Table 3.2 Distribution of immigrants by region and sex**

Provinces	Immigrant Population	% of total immigrant population	Male	% of total male population	Female	% of total female population
Athens region	145,916	39.5%	92,420	34.5%	49,487	52.9%
Thessaloniki	26,431	7.2%	18,756	7.0%	6,937	7.4%
Attica (except Athens)	17,806	4.8%	14,078	5.3%	3,017	3.2%
Larisa	9,143	2.5%	8,029	3.0%	990	1.1%
Fthiotida	8,598	2.3%	7,185	2.7%	1,313	1.4%
Viotia	8,305	2.2%	7,036	2.6%	1,077	1.2%
Heraklion	7,803	2.1%	5,440	2.0%	2,166	2.3%
Pella	7,414	2.0%	6,663	2.5%	639	0.7%
Hania	7,083	1.9%	4,918	1.8%	2,127	2.3%
Magnisia	7,015	1.9%	5,518	2.1%	1,400	1.5%
Ahaia	6,992	1.9%	5,426	2.0%	1,488	1.6%
Imathia	6,893	1.9%	6,169	2.3%	573	0.6%
Messinia	6,453	1.7%	4,699	1.8%	1,704	1.8%
Ileia	6,303	1.7%	4,863	1.8%	1,362	1.5%
Korinthia	6,180	1.7%	4,667	1.7%	1,441	1.5%
Argolida	5,845	1.6%	4,391	1.6%	1,218	1.3%
Evoia	5,842	1.6%	4,685	1.8%	1,093	1.2%
Aitolokarnania	5,326	1.4%	4,774	1.8%	453	0.5%
Pieria	5,167	1.4%	3,867	1.4%	1,084	1.2%
Kavala	5,140	1.4%	4,198	1.6%	913	1.0%
Halkidiki	5,100	1.4%	4,135	1.5%	875	0.9%
Lakonia	4,559	1.2%	3,271	1.2%	1,228	1.3%
Lasithi	4,317	1.2%	2,816	1.1%	1,369	1.5%
Dodekanise	3,889	1.1%	2,304	0.9%	1,534	1.6%
Kozani	3,773	1.0%	3,353	1.3%	362	0.4%
Cyclades	3,571	1.0%	2,443	0.9%	1,071	1.1%
Trikala	3,357	0.9%	3,003	1.1%	304	0.3%
Karditsa	3,108	0.8%	2,661	1.0%	420	0.4%
Serres	2,395	0.6%	2,062	0.8%	284	0.3%
Florina	2,358	0.6%	2,134	0.8%	207	0.2%
Kerkyra	2,240	0.6%	1,770	0.7%	458	0.5%
Kilkis	2,223	0.6%	1,866	0.7%	288	0.3%
Zante	2,069	0.6%	1,507	0.6%	532	0.6%
Rethymno	1,796	0.5%	1,325	0.5%	381	0.4%
Arkadia	1,784	0.5%	1,231	0.5%	383	0.4%
Lesvos	1,722	0.5%	1,272	0.5%	442	0.5%
Ioannina	1,695	0.5%	1,312	0.5%	354	0.4%
Preveza	1,667	0.5%	1,492	0.6%	136	0.1%
Kastoria	1,660	0.4%	1,296	0.5%	347	0.4%
Drama	1,311	0.4%	1,071	0.4%	237	0.3%
Grevena	1,308	0.4%	1,225	0.5%	73	0.1%
Kefallonia	1,255	0.3%	963	0.4%	280	0.3%
Fokida	1,170	0.3%	954	0.4%	214	0.2%
Arta	1,115	0.3%	952	0.4%	152	0.2%
Samos	1,024	0.3%	722	0.3%	269	0.3%
Thesprotia	933	0.3%	782	0.3%	110	0.1%

Hios	730	0.2%	508	0.2%	205	0.2%
Xanthi	646	0.2%	542	0.2%	101	0.1%
Lefkada	549	0.1%	431	0.2%	110	0.1%
Rodopi	306	0.1%	122	0.0%	136	0.1%
Evros	249	0.1%	126	0.0%	116	0.1%
Evritania	91	0.0%	66	0.0%	21	0.0%
Missing data	4	0.0%	3	0.0%	1	0.0%
Total	369,629	100.0%	267,502	100.0%	93,482	100.0%

Source: OAED/EPA, Kavounidi, Chatzaki, (1999: 1-2)

**Table 3.3 Geographic clustering of major immigrant population in Athens region by nationality**

Nationality	Number of Immigrants	% of total immigrant population in region
Albania	73,332	50.3%
Pakistan	9,047	6.2%
Bulgaria	7,583	5.2%
Poland	6,894	4.7%
Ukraine	5,777	4.0%
Philippines	4,946	3.4%
Egypt	4,583	3.1%
Bangladesh	2,871	2.0%
Iraq	2,770	1.9%
India	2,696	1.8

Source: adapted from Kavounidi and Chatzaki, (1999)

A note of caution, however, should be struck in relation to the presentation of the above tables. A section of the migrant population's presence is not captured in official demographic statistics due to technical reasons, and reasons that have to do with 'migrant resistance' in identifying themselves as immigrants and not as ethnic-Greeks (Psimmenos, 1998). In relation to the first, Kavounidi notes that a number of applicants did not answer questions which are considered vital for a complete demographic clustering of the immigrant population. In addition, some applicants confused their nationality with their place of origin or their religious affiliations with their ethnic identity.

According to recent research (Chtouris, Psimmenos, 1998) at the Prefecture of Athens, a large number of Albanian undocumented workers have considered the regularisation procedure as a process that might threaten their future plans to stay in Greece and 'enjoy' the equal rights given to the ethnic-Pontians or Greek-Albanian, communities in Greece. One Albanian asserted (1998) that he considered himself as an ethnic-Greek because he was married to a Greek-Albanian from Gjirokaster. On this basis, he wanted to know if there were 'other' procedures through which he could receive a work permit similar to the ones given to ethnic-Greeks from Pontos, or the Balkan region. More than anything else, a large number of immigrants who have applied for a White and Green Card, seem to have travelled from other regions of Greece, taking advantage of informal social ties (i.e. family networks or the ability to 'bribe' civil servants), to successfully complete the regularisation procedure.

In addition, a large number of applicants, due to their seasonal labour, have concentrated in different regions, thus not allowing us to hypothesise whether such concentrations are permanent or represent general trends that prompt people to identify themselves either with

an industry or a particular locality. This is more true for workers who seek employment through regional or street labouring markets, the so called ‘human Bazaars’ (where people congregate to sell their labour), and present a high geographic mobility, in comparison to other migrant labouring groups.

### 3.3 Demographic data on sex, age and family unification

Table 3.4 shows the distribution of the immigrant population according to the place of origin and sex. The table shows variations between the different ethnic groups and in at least two cases, that of Bulgarian and Moldavian migrants, women constitute on average, a larger group in comparison to that of male migrants. However, as Kavounidi and Chatzaki suggest, the table is not without problems since a large number of migrant applicants have not declared their gender in their application form, (i.e. more than 6,000 applicants have not declared their sex). Female migrants also constitute a large group amongst the Pontic population, and in contrast to table 3.4, Kassimati *et al*'s. (1991; 1998) research, points towards an understanding that the share of the female population exceeds that of the male population (table 3.5).

In relation to age, according to tables 3.5 and 3.6, the predominant group amongst the incoming Pontic-Greeks and economic immigrants fluctuates between those who are below 15 and those who are above 20 years of age. In relation to table 3.6, it seems that there is a large group of economic migrants who, at the time of their application for a work permit (1998), were between 21 and 30 years of age (49.1%), and above 31 years (42.7%). The social and economic significance of the above lies in the understanding that since the early 1990s, there has been an increase in the age groups of incoming migrants. It is clearly important to understand that this variation may constitute a new turn in immigration. This is so, especially if it influences positively the ratio of married to unmarried migrants, and the ratio between those who look to be unified with their family and those who may already have a family in Greece. Both, have profound implications for those legislating on immigration policy and for analysts of social welfare programmes. According to the above table (3.6), the size of household dependants in the host country (i.e. with up to two persons), constitutes 50.5% of the sample of all applicants. Together with the second group of migrants (i.e. those having three to six persons) 40.5%, are the single largest group of all applicants in the sample. Finally, the majority of all applicants (54.1%) expressed the view that they wished to bring their families to Greece, and possibly to have a permanent or lengthy settlement in the host country.

**Table 3.4 Demographic distribution of main immigrant groups by sex and nationality**

Nationality	Male	% of total male migrants	Female	% of total female migrants
Albania	194,062	72.5%	40,880	43,7%
Bulgaria	10,359	3.9%	13,985	15.0%
Rumania	11,328	4.2%	5,101	5.5%
Pakistan	10,371	3.9%	51	0.1%
Ukraine	1,871	0.7%	7,713	8.3%
Poland	4,757	1.8%	3,712	4%
Georgia	2,734	1%	4,651	5%
India	6,065	2.3%	103	0.1%

Egypt	5,698	2.1%	347	0.4%
Philippines	904	0.3%	4,360	4.7%

Source: adapted from Kavounidi and Chatzaki, (1999)

**Table 3.5 Demographic data on Pontic population (sample of repatriated Greek-Pontians, 1991) by sex and age**

Age groups	Number			Percentage		
	Total	Male	Female	Total	Male	Female
0-4	565	286	279	6.9	7.2	6.7
5-9	880	432	448	10.8	10.9	10.7
10-14	716	352	364	8.8	8.9	8.7
15-19	826	441	385	10.2	11.1	9.2
20-24	682	351	361	8.4	8.1	8.7
25-29	683	308	375	8.4	7.8	9
30-34	823	399	424	10.1	10.1	10.2
35-39	733	373	360	9.	9.4	8.6
40-44	512	243	269	6.3	6.1	6.4
45-49	355	179	176	4.4	4.5	4.2
50-54	353	179	174	4.4	4.5	4.2
55-59	303	151	152	3.7	3.8	3.6
60-64	258	116	142	3.2	2.9	3.4
65-69	207	87	120	2.6	2.2	2.9
70+	239	97	142	2.9	2.4	3.4
Total	8,135	3,961	4,173	100.0	100.0	100.0

Source: Kassimati *et al.*, (1993: 126).

**Table 3.6 Main demographic trends of economic migrants in Athens**

	Number	Percentage
<b>Age groups:</b>		
21-30	108	49.1
31>	94	42.7
<b>Gender:</b>		
Male	162	73.6
Female	49	22.3
<b>Place of Origin:</b>		
Albanian	117	53.2
ex-USSR	22	10
Mid-East	14	6.4
Other	18	8.2
<b>Religion:</b>		
Catholics	29	13.2
Christian orthodox	55	22.4
Christian of other dogmas (other than Chr. Orth. and Catholics)	61	27.7
Muslim	65	29.5
Atheists	4	1.8
<b>Marital status:</b>		

Married	102	46.4
Unmarried	95	43.2
<b>Family-dependants in country of Origin:</b>		
1-2 persons	22	10
3-6 persons	153	69.5
7-10 persons	25	11.4
<b>Family-dependants in host country:</b>		
1-2 persons	111	50.5
3-6 persons	89	40.5
7-10 persons	3	1.4
<b>Family unification in Greece:</b>		
Yes	119	54.1
No	63	28.6

Source: Psimmenos, (2000: 20)

#### 4. Overview of immigration policy pathways

Greece is facing a major problem for the first time: how to guarantee the continuous flow of a cheap labour force into the country, and at the same time how best to implement a 'flexible' policy that regulates this flow. This section will concentrate on the analysis of the above problematic, and will explore the complexity that exists in immigration policy. It will do so through a brief analysis of the changing patterns of immigration regulations, and of the political context that led to the formulation of a contemporary immigration policy.

As is reflected in table 4.1, Greece's immigration policy was transformed initially, according to emigration flows, and according to the nation-state and its policy of assimilation of ethnic groups. Both have dominated the discussions over migration, and as Petrakou (1999) argues, they have also dominated the theoretical-academic research.

. . . the dominance of the emigration issue in Greece followed the general perception that post-war migration is a movement from the 'periphery' to the 'centre' which is based on the economic needs of the advanced industrial countries. Under this perspective, not only politics in Greece but also theoretical research focused intensely on emigration issues giving little or no attention to the simultaneous transformation of Greece into an immigration country . . . (Petrakou, 1996: 96)

From table 4.1, it is evident that official policies towards both emigrants and immigrants have existed alongside economic policies (Mousourou, 1991) which regulated the organisation of trade and employment. Immigration policies have also existed alongside assimilative policies that regulated ethnic identity and citizenship status. It could be argued that, at one some point, the Greek official legislation and political line of reasoning reflected an ethicism, which tried to regulate both the mobility and cultural affiliations of groups of people, and at the same time excluded anyone who was not considered to be part of the dominant culture.



In line with the second part of the historic overview which has already been analysed, Law 4310/1929 defined as a non-Greek any person who has proved to the authorities that he/she is 'not' (article 8). The above-mentioned law followed an ethnically-centred approach to assimilating the groups of refugees that arrived in the country during the Balkan wars<sup>28</sup> (Poulopoulou, 1986), from Asia Minor<sup>29</sup> (Poulton, 1991), and from Egypt and the Maghreb countries, during the 1950s (Kassimati, 1999). On the other hand, the definition of who was a Greek of Greek origin was not defined and it was left to the authorities to decide upon the matter. As stated in the above table, immigration Law 4310/1929 considered migrants as either being of Greek origin or as migrants who belonged to a different nationality and were considered to be Alien. Work permits for the latter group were given in limited cases, and only after permission was granted by the Ministry of the Interior (article 13).

Given this ethno-centred policy, entry visas were provided according to circumstances and according to individual requests. However, the right to enter Greece was not given to people or groups who were considered to be a health hazard or a danger to public safety and national order (article 4). In relation to the above, there were restrictions imposed on mobility for both non-Greek migrants and ethnic refugees, while rehabilitation to areas of strategic - military interest was limited and subject to approval by the relevant ministries.

**Table 4.1 Immigration policies (1929 - 2000)**

	<b>Law 4310/1929</b>	<b>Law 1975/1991</b>	<b>Presidential decree 358/59/1997</b>
Typologies used	Aliens – Ethnic -Greeks (Not defined)	Aliens (those without a citizenship or who are not Greek), Illegal immigrants, Refugees	Illegal immigrants, Refugees
Emphasis	Assimilation, national identity, securing the cultural zones of nation-state	Assimilation through Naturalisation - Legislation - Guest worker philosophy / Temporality	Regularisation of illegal migrants - dependency upon employers' will to register migrants
Labour Policies	Centralisation of work-permit procedures (article 13) – clustering of work – cultural division of Labour	Flexible categorisation - divergent policies towards immigrants of various ethnic / work status according to employer	Similar rights (not equal) to indigenous population – flexible arrangements
Welfare policies	Continuation of Philanthropic measures / provisions – beginning of State institutionalisation programme - List of unwanted Aliens - Restrictions on Mobility	Provisions according to ministry of Labour / Public Order / Foreign Affairs – Restrictions/prohibitions on illegal immigrants – Prohibitions on entry (article 6, para 5) – List of unwanted immigrants (article 11)	Restrictions on mobility (article 2) while holding a Green Card, provisions for humanitarian reasons (article 5)
Special categories - policies	Ethnic Greeks (article 8)	– tourists (article 3) – students (article 15) – Ethnic Greeks (article 17)	Refugees (article 6)

<sup>28</sup> According to estimates almost 25,000 people have been removed or exchanged under the 1919 agreement between Greece and Bulgaria.

<sup>29</sup> Poulton has estimated that almost 1.4 million people left Asia Minor for Greece during and after the 1922 conflict.

(Not defined)  
 – Refugees (those  
 recognised as political  
 Refugees)

**Table 4.2 Major expulsions (in thousands) from Greece according to nationality**

Nationality	1991	1992	1993	1994	1995
Albanian	84.3	277.0	221.0	216.5	241.2
Bulgarian	-	0.4	1.0	0.8	1.4
Iraqi	0.2	0.3	11.5	1.8	3.9
Pakistani	-	0.3	1.5	1.6	1.8
Romanian	0.5	2.2	2.2	2.0	0.4
Turkish	-	0.1	0.4	0.6	2.3
Bangladeshi	-	-	-	0.4	0.5
Total	86.0	282.0	239.0	225.0	250.4

Source: Baldwin – Edwards, (1998) in Baldwin - Edwards and Fakiolas, (1998: 197)

In the early 1990s, the Greek government introduced a new migration law for the control and regulation of immigrant entry into the country and their employment by Greek businesses.

. . . The bill has concentrated on the development of stricter police controls throughout the country and the border regions in particular. Its main objectives were to impede the entrance of illegal immigrants and facilitate the expulsion of those already present in Greek territory by means of simplifying the expulsion procedures, giving a certain degree of autonomy to local police and judiciary authorities and also penalising illegal alien stay in the country. The law aimed thus at bringing Greece into line with its European partners, co-signatories of the 1990 Dublin convention (ratified by Greece by law 1996/1991) and members of the 1990 Schengen treaty, to which Greece was accorded observer status at the time . . . (Triandafyllidou, 1999)

Since the introduction of Law 1975/1991, it is estimated that 1.25 million deportations have taken place, which has not deterred the inflow of undocumented migrants into the country (Lazaridis, Theotoky, 1999) (See table 4.2). The most important aspect of the abovementioned law has been, as Triandafyllidou argues, Greece's intention to harmonise its policies towards immigrants with other EU countries and with the Schengen accord;<sup>30</sup> the implementation of stricter border controls; and the 'decentralisation' of executive powers concerning visa-permits, naturalisation and deportation procedures.

The increased powers given to law enforcement agents to stop, arrest and deport undocumented immigrants has proven to be an important cause of the general slowdown in the entry of migrants, and of the increase of an undocumented, temporary labour force. This last issue is making a difference because, for the first time it is officially recognised that migrants who are neither of Greek ethnic origin nor are refugees or asylum seekers, are allowed a work permit on a temporary basis. It is also worth mentioning that welfare benefits are given under conditions on which the Ministries of Labour, Public Order, and Foreign Affairs decide (article 14). Under exceptional circumstances, undocumented migrants may be allowed to use public services (i.e. medical services) (article 31, paragraph 2) (See Table 4.3).

<sup>30</sup> See Tousi (1994).

It is evident that the present migration policy is characterised by the absence of elementary measures, which ensure human rights. Furthermore, the basic goal of Law 1975/91 is the elimination of illegal migration. The state institutions function at a level of policing and suppression, and there is no specific social policy concerning the immigrant workers in our country. Most immigrants do not have any social security, social provision, unemployment or health benefits.

After the partial change in migration policy, through the Presidential Orders of 1996, the economic immigrants who work in our country legally, have been the subject of some social welfare. More particularly:

1. Immigrants who work in Greece (as well as those who work temporarily in Greece) can apply for and be provided with social security by IKA (the Institution of Social Security).
2. Working immigrants have the same employment and social rights as citizens (article 4, para 1, P.O. 358/1997).

**Table 4.3 External and internal mechanisms of immigration control**

**First Level**

External Control	Refugees Asylum Seekers (Ministry of Public Order)/UN	Mechanism of Status Recognition
Ministry of Public Order	Economic Migrants (Ministry of Labour)	Mechanism for Work / Residence Permits
Border Patrols	Return migrants Ethnic Groups – diaspora Ministry of Interior	Mechanism for Naturalisation
Coast Guard Patrols		

**Second Level**

Internal Control	Direct/explicit mechanisms for immigration control (Deportations, surveillance, benefits, sanctions, rights, access)
Ministry of Interior	
Ministry of Health and Social Security	
Ministry of Education	Indirect / implicit mechanisms
Local Administration	Discrepancies in deciding on work / residence permits, identity formation, segregation, ethnic categorisation
Ministry of Macedonia and Thrace	
Manpower Organisation	
Unions – NGOs – Prof. Associations	

Adapted from: Hanagan and Tilly (1999); Brochmann and Hammar (1999); and Georgoulas (2001)

3. Anyone who has employed an immigrant in any way is obliged to declare this employment to the appropriate office of OAED (the Manpower Organisation).
4. IKA (the social security department) issues a card, which contains:
  - a. the sector of insurance
  - b. the number of working days
  - c. payments
  - d. security benefits of the immigrant worker

The sickness, maternal and unemployment benefits for immigrants are governed by the same laws that apply to citizens, although usually they are not awarded by employers.

. . . The second section of the Law deals with legal stay of aliens, family reunification and work permits. Residence permits are granted for employment with pre-entry authorisation; they are employer specific and valid for one year, renewable for up to five years. After five years, a two-year permit can be given by joint decision of the Ministries of Public Order and of Labour . . . Family reunification is covered for the first time in Greek Law. Aliens holding a two-year residence permit can request similar residence permits for their immediate family . . . (Baldwin - Edwards and Fakiolas, 1998: 189)

Greek legislation provides for the possibility of the reunion and residence of the family members of an immigrant who stays and works in Greece. The necessary requirements for the submission of the application by the immigrant are:

- (a) the family members who have applied to enter and stay in Greece should live with him/her;
- (b) the immigrant should provide proof that he has a stable and sufficient income (not less than the unskilled worker's wage) to cover his family's needs, a proper residence, and medical care insurance;
- (c) the family members invited should have proper travelling documents and valid visas provided by a Greek consulate;
- (d) the presence of the family members in Greece should not constitute a danger to public order, national security or public health.

The application and the necessary documents are submitted to the aliens department at the place of the applicant's residence, and then to the State Security Offices. If the latter does not approve the application, it sends all the documents back to the applicant together with a statement, which contains the reasons for the refusal of the application. If approved, the documents are sent to the Ministry of Foreign Affairs, so that the applicant will be provided with a Greek visa.

However, the above outline does not fully describe the present situation. The existing migration policy maintains and fosters illegal employment, temporality and marginalisation of migrants, while, on the other hand, it is protective of other migrant groups such as refugees and returned migrants.

This specific point is also the most important one. What is predetermined by the Greek state today, is the presence of an immigrant who is not a citizen but an illegal worker with no possibility of access to the social policy networks and institutions. Indicative of this fact is the following. Those who have been removed from the country as illegal immigrants are listed as unwanted immigrants (article 2, paragraph 2, Ministerial decision 4803/13/4/1992).

An economic migrant who has applied for political asylum but has been expelled after a decision of the Ministry of Order, does not have a right to re-apply (article 25, paragraph 3, Law 1975/1991). Despite the guarantees that section 2 gives to migrants with regard to family reunification, police and local authorities have used a number of informal policies to restrict and curtail further the legal residence of immigrants. These informal policies vary and their existence shows that Law 1991 is not applicable to all immigrants and is

dependent on the latter's ethnic origin, status, and relationships or informal social networks.

Kourtovik (1999) argues that the above Law establishes a number of informal practices which in the past were not officially admitted, such as the promotion of informal or casual work and of informal economic activities (Kourtovik, 1999: 186-7). Undocumented migrants are left with almost no rights to apply for a work-permit or to defend themselves in court, whilst on the other hand, 'legal' migrants are unable to change, or alter their employment, employer or place of work (article 23). Thus, for the first time, Greek immigration policy is recognising the need to establish a legal framework for the protection of business interests. This takes place through the establishment of a relationship between hiring agencies (i.e. in the case of Greece, this is the Manpower Organisation) in the country of origin and in Greece, the employer, and the Ministry of Labour.

Presidential Decrees 58 and 59 of 1997 have provided Greece with its first regularisation programme according to which immigrant workers are eligible, if their applications satisfy the authorities, to receive a White and a Green card. Both cards provide migrants with the same rights as the indigenous Greek population, but the proceedings surrounding the application process have been criticised by academics and trade union representatives.

. . . The award of Green Cards is determined by a committee consisting of a magistrate, representatives from OAED (Manpower Organisation), the ministry of labour, the Police Aliens Bureau, and the General Confederation of Greek Workers . . . Examination of applications requires a Ministry of Justice criminal record certification, which the ministry takes 18 months to provide. Many immigrants cannot have their application considered before 2000, as a consequence. Another serious problem is the refusal of IKA, the social security agency, to issue booklets to immigrants for the payment of the social security contributions . . . (Baldwin-Edwards and Fakiolas, 1998: 192-3).

Clearly, the current policy framework not only lacks a global and coherent approach covering both control and integration, but also leaves room for informal manoeuvring on the part of the public services. The issue of implementation is therefore central to the study of Greek immigration policy. Informal routines and codes of practices are likely to shape the overall process of applying the law and to condition the outcomes (both intended and unintended) of specific policy measures, like the recent regularisation programme.

## **5. Concluding remarks**

Through our report we have focused upon the construction of different pathways for the inclusion-exclusion of immigrant workers in Greece. From the village community system of organisation we have passed to the construction of cultural boundaries and a cultural division of labour. Both have served the needs of the newly constituted Greek nationalism and have produced a social landscape of people in Greece that emphasises national identity as a framework of civil existence. The latter has proved more to be a straight-jacket for minority, refugee, and immigrant labourers.

Regional and global economic restructuring have added to the above social landscape, through the articulation in Greece, for the first time, of a legal framework, a 'taxinomial' and cultural division of labour, that follows a 'Gastarbeiter' philosophy. Based upon

flexibility, the global integration and deregulation of workers' labour organisation, has produced a new experience of migration that is exclusionary and fragmented.

To outline the experience of migration in Greece, as Berger and Mohr (1975) have argued, one has to 'grasp' the political reality(ies) of the country and of the macro-global environment that surrounds it. The subject in the 'seventh man' was Europe and the construction of a European identity, today this is more true than ever. 'Fortress Europe' and the construction of cultural and economic boundaries seem prevalent and central, in the course of inclusion-exclusion processes of immigrant workers.

Part one identifies four basic historic periods, according to which migration into the country has developed. In the Mediterranean, and in particular in Greece, the presence of immigrant workers has existed first as part of community and the village system. Within the latter, immigrants have constituted part of the ritual process of identity-exchange formations. With transhumance, nomadism, and the association of workers according to craft, migration has developed into an archetype of village life. With the beginning of industrialisation, immigration developed into a flow of proletarianised labourers across the region. Nationalism and a cultural division of labour has created the first processes of marginalisation of immigrant workers. During 1970-1974, Greece developed its first guest-worker policies with the intention of establishing an austere labour policy (for Greek workers) and a reserve army of cheap labourers. Since the end of the military dictatorship, Greece has used workers from the surrounding areas in order to implement global economic and political aims.

Part two reflects the current problems surrounding demographic-cultural categorisations of the immigrant population in the country. There is a presentation of the geographic clustering and of sexual and nationality identities of documented and undocumented economic immigrants. This part exemplifies the socio-cultural diversity and temporal presence and status of main immigrant groups in Greece. Due to global immigrant flows, the demographic classification of immigrants has become an even more complex and variegated task.

Part three presents an analysis of the main immigration policies in Greece. Since 1929, there have been various immigration laws, according to which immigrants have been either excluded from or assimilated into the dominant cultural framework. With the emergence of international economic migration, the Greek state has accommodated a policy that is characterised by temporality, flexibility and the establishment of a legal framework for the presence of a cheap labour force in the country.

Leaving aside the deficiencies of the current policy framework, its implementation draws heavily upon Greece's historical and cultural specificities, which are integrated as identity and organisational culture dynamics in the process. The strict law governing control policies coupled with a public bureaucracy that was (and still is) largely unprepared to face the challenge of migration necessitate a systematic account of the implementation process so as to identify the factors that have an impact on it.

# Chapter 4: Immigration Policy and its Implementation in Italy

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## 1. Introduction

Italy is a country with a recent and short experience in immigration politics and administration. In the post-war period and until the mid 1970s, it was a country of emigration, a trend that significantly influenced part of its economic, social and political history. Since the early 1980s a new pattern of migration to Europe has developed, which increasingly involved the southern European countries as receivers and users of foreign labour, instead of suppliers as was the case in the past, while the traditional points of entry for immigrants (north-western Europe) were increasingly closed. It was then that Italy became a country of immigration (namely, much later than other countries in Western Europe) with the numbers of migrants returning exceeding those departing.

This paper examines the ‘new’ immigration to Italy and the responses to it both from the legal and the administrative point of view. Its aim is to sketch briefly the current situation in Italy with main reference to the recent population flows and related policies. More specifically, the paper offers (a) an overview of the history of Italian immigration and the immigrant policies established and developed; (b) the state’s response to immigration: recent legal and policy measures adopted; (c) a tentative classification of the migratory inflow with regard to its demographic and socio-economic features; (d) some introductory comments concerning the particularities of the Italian case which may be used as a starting point for comparisons with other EU member states; and (e) a brief review of the existing literature on immigration in Italy.

## 2. The new immigration into Italy

Since the beginning of the 1980s, Italy discovered itself to be a country of immigration without yet having comprehensive migratory policies, not until recently at least. Unlike other industrialised societies in Western Europe, Italy had somewhat limited experience of immigration in the recent past and never of the current size and nature. Until the 1970s, immigration was restricted to people mostly of Italian origin going from the rural south to the industrialised north (internal immigration), or returnees from Europe and South America.

Italy witnessed an unexpectedly high influx of immigrants of non-Italian origin (from Africa and Asia, as well as Latin America and Eastern Europe) throughout the 1980s, who took advantage of the country’s economic growth and the near absence of immigration controls (Cornelius *et al*, 1994). More specifically, three distinct developments contributed to the consistent growth in the numbers of migratory flows toward Italy: (a) the closure of the borders of Germany, the UK and the rest of Western Europe after the 1974 oil crisis.

To some extent, Italy became the back door to the rest of Europe, as an alternative to northern destinations of immigrants. Migratory flows were partially diverted to Italy and the rest of southern Europe from the economically and socially more attractive northern and central Europe as the result of the oil crisis, (b) Italy's weak post-war colonial ties: the country retained a generally positive image in many Third World countries since the colonialist period has been relatively short and involved a rather small number of countries, (c) the great pull of the reserve of cheap labour (Campani, 1993; Zincone, 1998).

The country started to experience pressure, like the rest of its southern European neighbours, from asylum seekers<sup>31</sup> and undocumented migrants who escaped extreme poverty, famine, or ethnic strife and political oppression in their countries of origin. In fact, new migration flows started from an increasing number of Third World countries in Africa, Asia and Eastern Europe. The migration balance became positive for the first time in 1973 (Veugelers, 1994). Additionally, the 1981 census indicated for the first time a new feature in immigration to Italy: the number of people *present* in the country exceeded the number of *residents*, suggesting an influx of undocumented immigrants (Maciotti and Pugliese, 1991: 6). This was a new phenomenon for modern Italian society.<sup>32</sup>

In the Italian political debate (the same as in the media and even at times in scholarly debates) on immigration then, but also today, the issue was characterised as a 'social emergency'. A number of issues arose in relation to immigrants including their social and cultural integration, informal labour and political asylum. Research on these topics has been hampered by the difficulty of obtaining data, since a large number of immigrants were undocumented. Nonetheless, attention was paid to problems such as the poor delivery of social services, housing problems, the management of the labour market and, more particularly, the spread of the informal economy, indeed a structural feature of Italian society. It soon became clear that a new administrative and cultural framework, especially in urban areas, was necessary to deal with the foreign presence.

Although present throughout the country, foreigners concentrate in the urban areas of the centre and north of Italy where work opportunities are greater, especially in the tertiary sector and mostly in the informal labour market. In comparison to other European countries, Italy has a particularly large underground economy and a rigid segmentation of the labour market. These two structural features contribute significantly to the migrants' insertion in low-paying, temporary, irregular jobs throughout the country.<sup>33</sup> At the same time, this makes it difficult to provide data and design and implement appropriate policies, since the presence and activities of most immigrants remain undocumented.

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<sup>31</sup> Until that time the country usually granted the status of political refugee only to Europeans (Campani, 1993).

<sup>32</sup> Although the term 'ethnic minorities' has not been used in Italy as a social or political category, the state recognises 'linguistic minorities' (German and Slovenian speakers in territories such as South Tyrol and Friuli) and 'religious communities' (Islamic organisations are applying for recognition). This distinction however has made co-ordination with other European countries difficult in matters of migration and ethnic or cultural diversity because classificatory systems in these countries are based on ethnic groups (e.g. the UK) or on citizenship status correlated with nationality at birth (e.g. Germany).

<sup>33</sup> Italy's labour market encourages illegal immigration because employers have an interest in recruiting undocumented foreign workers saving thus not only in wages but also in taxes and social security payments that are exceptionally high in this country.



### 3. The development of the Italian immigration policy

In order to comply with Italy's participation in the Schengen Treaty and the European immigration and asylum policy framework, Italian immigration policy has endeavoured, at least in theory, to restrict migratory flows and to develop social policies that would support immigrant integration into the host society.

Indeed, Italy was an early starter among southern European countries as regards provisions on immigration. The first comprehensive immigration law was introduced in 1986.<sup>34</sup> More specifically, the first program of regularisation of illegal immigrants was enacted in 1986 (law n. 943/1986) which regulated the conditions for admission and residence of foreigners into the country as well as guaranteeing their equal rights with Italian citizens. Moreover, it defined the conditions for regularisation of clandestine immigrant labourers. This law was flawed in two fundamental aspects: (a) it ignored refugees and, (b) the conditions required for illegal immigrants to be eligible for regularisation were too difficult to be met. Thus, the output of the program was relatively low, only 105,312 immigrants managed to pass the test (Sopemi, 1991: 22), in comparison to the number of illegal immigrants estimated to be present in the Italian territory at the time.

A new law was adopted in 1989 (law n. 39/1990 or mostly known as the *Martelli* law), which affirmed the equality of rights between foreigners and Italians, tightened the conditions for entry into the country but, most importantly, enlarged the scope for regularisation of those already present in the national territory. According to Sopemi (1991: 22), 216,037 immigrants were legalised through this law. Furthermore, special provisions regarding immigration including the annual planning of migratory flows (e.g. ministerial decree, *Gazzetta Ufficiale* (GU), 1.8.97 n.178; GU, 5.9.95, n.252), provisions regarding the seasonal employment of immigrant workers (e.g. *decreto-legge*, GU, 16.9.96, n.217; GU, 16.7.96 n.166; GU, 18.5.96, n.115), emergency measures concerning the influx of Albanian immigrants (*decreto-legge*, GU, 20.3.97, n.60; GU, 1.7.95, n.152) or general provisions (e.g. GU, 9.12.96, n. 288), have been issued regularly in recent years. Moreover, a new immigration law, which came to complement and update existing provisions, was adopted in March 1998 (law n. 40 of March 6, 1998). Eventually, in August 1998 the Parliament issued the '*Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero*' (Unique text of legal dispositions concerning immigration and norms regarding the condition of foreigners) which brought together laws n. 773/1931, n. 943/1986 and n. 335/1995 (*Guida al Diritto*, 12.09.1998, p.III) creating, as it is stated in the title, a unitary corpus of norms which regulates the rights and obligations of foreigners in Italy, their stay and work conditions and other matters regarding family reunion, social integration and cultural life in the host country (Triandafyllidou, 1999).

The recent law enacted in Italy regarding foreigners reveals interesting combinations of national considerations and Western European systemic changes. It can be placed within the general framework of the European Union discourse on migration as a critical situation. It demonstrates extensive support for restrictive immigration policies through the imposition of severe controls to regularise the numbers of third country immigrants.

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<sup>34</sup> Up to 1986, legislation covered only the stay of the foreign citizens in the country and the expulsion and prohibition of entry at the border. The response to the gaps in legislation consisted of ministerial circulars on specific aspects that dealt only with the most serious problems of foreign immigration (Reyneri, 1999; Bonifazi, 2000).

Concerning the relationship between the nation(-state) and immigrants, the Western European type of economic argumentation bypasses a normative discourse linked to notions of human rights for instance, and justifies discrimination de-legitimising the position of immigrants in the host society through ethnic and cultural arguments.

In a slightly different manner, Italy is still trying to overcome an emergency-based approach to migration management. The 1998 immigration law (n. 40/06.3.1998) came into effect in October 1999, and combined with a supposedly final regularisation initiative, was expected to bring a definitive solution to the 'emergency' of immigration by incorporating immigration control and integration policies into a stable policy framework. Although this law provides for the recognition and rehabilitation of immigrants by dealing with the issues of entry, residence and work, the trends in the development and implementation of its regulations are guided by ideas of 'imminent threat', in accordance with similar views in other EU countries. In particular, the main concern is to curb undocumented immigration through the strict control and regulation of the entry of foreigners. It sets quotas for new immigration and defines the criteria for naturalisation.

In brief, there are three main new objectives of this law:

- (a) a more efficient regularisation process and organisation of the influx of foreigners that seek employment,
- (b) the effective prevention of undocumented immigration,
- (c) the integration of immigrants that already reside legally in the country.

We will summarise here the main innovations with respect to these three objectives introduced by Law no.40, 1998:

- In order to control clandestine entry, the Law envisages the possibility of detaining illegal immigrant in special 'centres of residence and assistance' (art.12) run by voluntary associations and patrolled by the police. Expulsion is determined by a judge for security reasons (art.13, 14).
- The introduction of severe measures against undocumented people is due to the belief that undocumented residence and criminal behaviour go hand in hand (Blangiardo, 1998: 48). It is striking that in legal documents the undocumented status is referred to as 'illegality'.
- With respect to regulation, a three-year plan of immigration flows has been decided upon. The annual quotas are to be determined each time by the president of the Council of Ministers and the Parliament according to the needs of the labour market (art.3).
- Another important innovation concerns the provision about resident Italian citizens guaranteeing and supporting immigrants looking for a job (art.21). The Law also makes conditions clearer as to what is required by an immigrant in order to reside legally in Italy. Workers can enter and stay in Italy through the following different procedures: the national seasonal quotas;<sup>35</sup> work contracts with an Italian employer; and use of the 'sponsorship' of an Italian resident. To those immigrants a temporary permit can be issued within a planned quota.
- Moreover, the residence permit can become permanent after five years of legal stay in the country (art.7). Such measures show the government's will to promote immigrant

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<sup>35</sup> The quotas established for 1998 and 1999 were 58,000 each year, although due to the regularisation programme in course, they were not eventually respected.

integration. Indeed, a number of provisions of the law, such those facilitating family reunion (art.27) adopt the same logic.

Even though it is too early to assess the effect of the new law on immigration control and integration, we shall attempt a tentative evaluation. Its positive features include:

- (a) the will of the Italian authorities to deal with immigration as a long-term phenomenon providing for ordinary, rather than extraordinary or temporary, measures and provisions on the matter;
- (b) the law reiterates and reinforces the equality of treatment and rights between Italians and immigrants;
- (c) it aims at the long-term planning of migratory flows with the co-operation of the governments in the immigrants' countries of origin, acknowledging that there is room in the Italian labour market for foreign workers, provided flows and stays are regulated (see *Guida al Diritto, Inserto speciale*, 12.09.1998).

On the other hand, a number of problematic aspects are identified:

- (a) the policing of the phenomenon (the police were made responsible for the formalities in handling immigration);
- (b) the economic problems perpetuated (with the last regularisation, immigrants were excluded from the labour market because employers would take on illegals rather than regularised immigrants, who would demand official pay and conditions)
- (c) the law failed to prevent violence and xenophobia against foreigners. Indeed the Italian public, which was reported to have shown an attitude of 'social tolerance' towards immigrants in the past (Ferrarotti, 1984), gradually became explicitly hostile and xenophobic. Racist incidents were registered as early as 1990-1 (Bonifazi, 1992; Woods, 1992: 189).

Nevertheless, public education, social services and legal or informal employment have facilitated the integration of foreigners into Italian society. The integration process is fostered by the new legislation that is comparatively liberal, not only for documented but also for undocumented immigrants. Efforts to extinguish unauthorised immigration and the occasional repressive measures have been only partly successful in reducing the phenomenon. The persistence of unlawful immigration is linked to structural features of the Italian economy and society<sup>36</sup> including, for instance, the fact that legislation allows for immigration flows, according to the demands of the domestic labour market, to re-establish the market equilibrium (Reyneri, 1998; Bonetti, 1998). Furthermore, the Italian government's comparatively relaxed approach to the issue is illustrated by its delayed response to pressures from other Schengen member states to tighten up the rules on expulsion of undocumented immigrants. Moreover, the periodical enactment of regularisation programmes (four in 14 years: 1986, 1990, 1996 and 1998) seems to partly encourage further irregular migration.

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<sup>36</sup> For a very interesting study of the complex relation between immigration and the labour market in Italy and southern Europe in general, see Reyneri *et al.* (1999).

As a matter of fact, the recent immigration law did not significantly alter the conditions under which immigrants participated in the underground labour market in Italy.<sup>37</sup> Many immigrants were regularised by the legalisation acts and obtained resident permits as unemployed while working in the informal<sup>38</sup> sector. Many others remained in the country after the expiration of quotas handed out every year. Few immigrants are actually expelled from the country.

These events support the view that the issue of undocumented worker immigration, because of its contribution to production and regional income and despite the potential social tensions associated with the immigrant presence, is considered more a political than an economic or even social problem for Italy (Mingione and Quassoli, 2000: 29-32). It may thus be argued that in the case of Italy, and of southern Europe in general, ostensibly undesired, undocumented worker immigration represents at present more of a contribution than a threat to economic stability.

The picture that emerges from the statistics, various estimates, and even from the streets in Italy is that immigrants actually choose it as a country in which it is relatively easy to enter and stay, even without a permit. Inspections are few and immigrants are rarely deported. This, combined with a general laxity and/or at times instances of excessive severity – the typical pattern for Italian public administration – leaves immigrants room for manoeuvre.

This finding raises a number of questions concerning not so much the actual law governing immigration but rather its more or less successful implementation, as well as its intertwining with other policy areas such as work and welfare regulation.

#### **4. National origins, size, regional and employment distribution of the immigrant population**

##### **4.1 Composition and numbers**

The most common terms used by Italians to refer to immigrants in general and from developing countries in particular, are '*stranieri*' (foreigner), '*immigrati*' (immigrant) and '*extracomunitari*', which literally means a citizen from a non-EU country.<sup>39</sup>

Compared with northern European countries, the phenomenon remains minor in Italy. In spite of the very visible presence of immigration, boosted by media attention,<sup>40</sup> there

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<sup>37</sup> In fact, the majority of them – employed permanently or temporarily in the underground economy – continued to work without papers and instead obtained permits as job-seekers (Mingione and Quassoli, 2000: 50).

<sup>38</sup> Some immigrants managed to regularise their status by declaring housekeeping as their formal employment and then were seemingly employed in other informal jobs.

<sup>39</sup> Although used in statistics and policy to refer to citizens from outside the EU, in public discourse the term means immigrants from poorer countries without distinction of phenotypic characteristics (skin colour, complexion) or religion.

<sup>40</sup> Media representation of immigration uses wording like 'invasion' or 'wave' to refer to the phenomenon as a threat by exaggerating its size. For example, images in newspapers of Albanian immigrants arriving on rafts are usually accompanied by reports on the public's concern over cultural integrity and criminality.

seems to be a great disparity between the social alarm concerning an alleged 'invasion' of the country by immigrants and the extent of the phenomenon, which, even based on the most exaggerated statistics, represents less than 3% of the population. However, the immigration population is rising and its demographic effect has started to be taken into account by scholars and gradually also by policy makers, who include the effect in official statistics and estimates of demographic growth.

The large majority of immigrants who come to live and work in Italy are motivated by economic reasons (poverty, unemployment, overpopulation, in some cases outright famine) as well as political ones (ethnic strife, persecution by authoritarian regimes). Most of them came to Italy from African, South American, Asian and Eastern European countries. Three main socio-economic groups are distinguished by scholars: (a) maids from Cape Verde, Ethiopia, Salvador and the Philippines, (b) immigrants from 'bordering countries', i.e. Tunisians, Moroccans and East Europeans, and (c) political refugees from Latin America, Ethiopia, and Vietnam (Campani, 1993: 512-16; Reyneri, 1998: 10-15). The largest of these groups are Moroccans, Albanians, people from the former Yugoslavia, Filipinos, Tunisians and Senegalese, but important flows also come from Egypt, Brazil, India, Sri Lanka, Poland, Romania, Peru, China, Somalia, Ghana, and Nigeria. Based on preliminary data for the last year, the largest groups of undocumented foreigners are Moroccans (17.7%) followed by Albanians (15.8%), Romanians, Poles and Brazilians [East Europe – excluding Albania – (21%) and South America (8.2%)].

Quite significantly, data for 1998 show that the figures on undocumented immigration were strongly affected by the outcome of the regularisation process – the last one in 1998.<sup>41</sup> The amnesty provided an indication of the number of clandestine immigrants, who had been in Italy for a brief period, at least those who eventually fulfilled the eligibility requirements and were included within the maximum quotas fixed for every nationality (i.e. the indication for Albanians reached the figure of 3,000 for 1998 and 1999). Most immigrants from developing countries currently in Italy received their papers through amnesties and not through the normal immigration procedures (Sopemi, 2000). The tendency to fix low quotas while enacting periodic regularisation programmes has had the effect that immigrants continue to opt for illegal entry and residence, seemingly with the hope that they will be later regularised. Nonetheless, there is an increasing number of immigrants who apply legally to obtain residence and work permits (despite the rejection rates which run at about 40%).

Most undocumented migrants in Italy are likely to have entered by legal means. Tourist, religious, study and health visas allow for legal entry although they expire after a few months. Other legal, and thus documented, ways of entry are the – easily acquired – work permits for housekeeping and seasonal work contracts.

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<sup>41</sup> With reference to the regularisation processes, the data show that the numbers of unregistered foreigners have been reduced considerably in a quite uniform way in different estimates corresponding to the years after the '*sanatoria*' – previous law 39/90 – (Caritas, 1996 and Reyneri, 1998). The estimates from ISTAT, during the regularisation period, were based on monitoring the increase in unregistered foreign residence. The estimates of Reyneri (1998a and 1998b) for the years 1994 and 1996 used data from the inspections of the Ministry of Labour combined with data from INPS and ISTAT. In those estimates for 1994, the immigrants in regular employment were one third of the total number of those occupied in the labour market in Italy (in absolute numbers: 211,000 and 690,000 respectively). According to Reyneri the statistics for 1996 underestimated the entry of immigrants in the labour market since a large number of those regularised had been inserted in the registration lists of the Ministry of Interior and INPS only in 1997.

A peculiar feature of Italian immigration is the large number of sending countries, many of which are very distant and have never had special economic or cultural relationships with Italy. The immigrant population comes from all continents. There is even greater diversity: for instance, many of the Moroccans in Italy are not Arabs but Berbers and the Poles are divided between the urban political refugees from the pre-1989 period and the rural labourers who came afterwards.

Some migrants in Italy fit the stereotype of the old-type of immigration to Europe, which classed them as poor peasants and out of work farm labourers, not educated, coming from rural societies. However, according to surveys (see Reyneri, 1997 for a review), many migrants were living in urban areas before emigrating. Furthermore, besides the usual temporary and targeted migration by seasonal or commuter migrants, that is people who look for occasional jobs to make up for the off-seasons in their countries of origin – where they periodically return – many migrants intend to acquire higher economic and social status and/or search for more open lifestyles.<sup>42</sup> Other migrants – the ones most exposed to the expectation of socialisation carried out by Italian television – adopt a consumerist approach towards migration.

Immigrants' geographical distribution and their housing conditions reflect their low social status as well as the jobs they undertake. Although they develop their own residential strategies and may gradually create territories with an ethnic character, they are not segregated in specific quarters or ghettos.

#### **4.2 Regular and irregular jobs for immigrant workers**

Taking into account the above diverse characteristics of the immigrant population, we can see how it is precisely this variety of intentions that makes their incorporation into the irregular labour market easier and makes up for the attraction that the Italian underground economy exerts cross-nationally.<sup>43</sup> Provisional data appear more often to acknowledge the effect of immigration on the labour force, but still it is very difficult to give figures on undocumented immigration, because of its very nature.<sup>44</sup> However, some estimates claim the total figure for 1999 was about 180,000 new arrivals (*Il Messaggero, Primo Piano: Clandestini*, 21 May 2000).

The heterogeneity among immigrants, mentioned above, is also reproduced in the ways in which migrants are inserted into the local underground economy in Italy. Some analysts

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<sup>42</sup> See also Jordan and Vogel, 1997 concerning undocumented migrants in London and Berlin.

<sup>43</sup> The existence of the underground economy is not restricted to Italy alone. According to a report to the European Commission, unregistered labour as of 1988 exceeded 20% in Portugal, Greece, Spain and Southern Italy, whereas it was between 12% and 18% in Northern Italy and below 10% in Great Britain and Germany (Mingione and Magatti, 1994).

<sup>44</sup> As far as the effect of the immigrants' presence in the labour market is concerned, a large number of empirical studies have been published, which have both national and local focus. Many scholars have offered estimates of the foreign presence. However, in general they have been criticised for being predominately approximations. A recent working paper of Eurostat on 'The clandestine immigration in Europe measured' (Delaunay and Tapinos, 1998) provides a review of the methods used for calculating estimates of the illegal part of immigration in some principal first destination European countries. Particular attention is given in this report to the Italian methods (it is documented in this paper that the methodology used by ISTAT for estimating the underground economy was to compare the data between the demand and offer of labour).

assert that ethnic specialisation in the labour market is particularly strong (Campani, 1993: 515). Looking at immigrant employment, the nature of jobs could be broadly identified with certain immigrant groups. For instance, the building industry frequently employs migrants, mainly without papers, mostly from the Maghreb and Eastern Europe. Seasonal jobs in agriculture rely heavily on irregular male workers from Latin America, India and Sri Lanka. Trading is largely characterised by self-employment in informal activities. Street vending would be the most typical and it involves immigrants from Morocco, Senegal and China. Domestic services employ women from Eritrea, the Philippines, Albania and Poland. Chinese communities are mainly engaged in handicraft activities. The occupational distribution is accompanied by the regional distribution of migration chains, that is, the concentration of certain nationalities in specific regions within the country: Moroccans in the industrial north, Chinese in the area around Florence and Prato, Senegalese in the small cities of the north east (ISTAT, 1992).

The main regular and irregular jobs held by immigrants are:

- (a) Housekeeping is by far the largest occupation open to immigrants (mostly women).<sup>45</sup> Although over 50,000 immigrants entered Italy as housekeepers from 1992 to 1995 and over 90,000 availed themselves of the 1996 legislation to work as housekeepers, it can be said that the proportion of irregulars still remains important.
- (b) According to estimates, a form of trade with a long tradition in Italy is street selling and it is not dying out (Sopemi, 2000). Peddlers of mostly counterfeit goods are above all Moroccans, Senegalese and Chinese.<sup>46</sup>
- (c) Seasonal harvesting, spread through all southern regions, occupies typically migrant labour replacing Italian workers. In this type of employment, immigrants are provided with a registered labour contract, which at times takes the form of permanent job.
- (d) A lot of immigrants, mostly from Morocco, Albania and the former Yugoslavia, work in construction in all regions. The 'grey market' of construction (sub-contracted to fake co-operatives) involves increasing numbers of migrants.
- (e) Immigrants are mainly employed in jobs which have the toughest conditions as regards physical effort, overtime work, night shifts and risk of accidents (e.g. small manufacturing firms). Also large firms are downsizing their labour force and changing its mix. Regular labour contracts are offered in this sector.
- (f) In the metropolitan areas, migrants hold a wide range of jobs in low-level services: dishwashers, waiters, cooks, gas-pump operators, guardians, night-watchmen, painters etc. These are the 'bad jobs' of the city, done by regularly hired migrants by various firms.
- (g) Self-employment, mostly in big cities. The Chinese are very efficient in this sector, i.e. retail trade, artisans, restaurants, etc.

All local surveys on immigrants show a great proportion of irregular employment, even among those who could have a regular labour contract as they hold a permit allowing residence for work purposes (not all the irregular migrant wage earners are necessarily

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<sup>45</sup> There is a huge demand for housekeeping, which is still a status symbol for the Italian middle-classes. Another similar way to enter the country is through recruitment organised by religious bodies. Catholic organisations in Italy have a long-standing tradition as employment agencies for domestic workers.

<sup>46</sup> Migrants are allowed to sell on the street only by virtue either of there being no control or with the tolerance of the police, who only intervene when serious illicit acts are committed or when shopkeepers protest.

without documents).<sup>47</sup> According to the Ministry of Labour inspections they are divided into two groups: those who hold permits allowing residence for work reasons and those who do not. The distinction between regular and irregular immigrant labour does not lead to levels of discrimination in practice on the basis of preference for the one or the other group; on the contrary both groups are employed but in different labour sectors (regular and irregular).

Together with their precarious occupational standing, immigrants in Italy are scattered and divided into too many national groups to be able to organise politically and provide the cultural and economic resources necessary to build communities that would take care of their own interests. In Italy this role is played by traditional lower strata pressure groups (voluntary associations, unions, civil servants), who provide assistance with the economic and social incorporation of foreigners and a policy network alternative to the dominant political debate and national legislation on immigration.

## 5. Issue and renewal of stay permits for work purposes

How do local authorities cope with immigrants? In the first place, with respect to the application of the law which is designed for the national level, various ministries issue circulars, upon request, to interpret and facilitate the implementation of the law at the regional level (e.g. D.L. 380 -19/10/98, countries' access to free equipment in fighting illegal immigration; Planning Document on Immigration and Foreign Resident Policy - 5/8/98; D.L. 113 -13/4/98, modifies articles of the law on measures against private activities to encourage undocumented immigrant residence and work; D.P.M. 4/8/99 yearly quotas for foreigners). Leaving aside such *ad hoc* circulars, we shall provide here an outline of the main legal provisions concerning the issue of *residence permits for work purposes*, the procedure to be followed and the public bodies involved, according to the new law.

According to the legislative decree 25/7/1998 n.286 issued by the *Presidente del Consiglio dei Ministri*, the quota for the entry of foreign labour workers is to be determined annually. For the current year the state permits the entry of 63,000 labourers from non-EU countries, as dependent or self-employed workers.<sup>48</sup> The list of quotas for entry for the year 2000 was sent to Albania, Morocco, Romania and Tunisia.

As far as dependent employment is concerned, the legal procedure is as follows:

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<sup>47</sup> Clearly the estimate methods become particularly complex also because of the nature of the phenomenon. The statistical registration and analysis of the relation between undocumented immigration and the irregular economy is obstructed by the fact that there are no principal characteristics by which to identify each of the two phenomena in a more or less consistent way. Seemingly, entry without the necessary documents (irregular entry) brings about an irregular stay, whereas a regular entry allows for the possibility of a regular stay for a period of time provided that the necessary legal procedure is followed. During the period between the status *all'ingresso* and the status *di soggiorno*, many foreign immigrants decide to let the *visto di ingresso* (entrance visa) expire without applying for a renewal and stay irregularly in the country, while others obtain a valid document of stay in order to have the right to apply for regularisation of their status once a new regularisation law is put into effect.

<sup>48</sup> Data from the 'Vademecum', *Presidente del Consiglio dei Ministri*, March 2000, p. 2.



- (a) The employer presents an official request to the *Ufficio Provinciale del Lavoro* of his region (the region where the employer will undertake the labour activity for which the foreign employee is needed) in order to acquire the '*autorizzazione al lavoro offerto*' (job offer authorisation), which is granted in accordance with the specific quota announced for each region. The request has to specify the type and place of employment, the name of the employer and of the potential employee and an indication about the employee's place of residence. Moreover, the following documents have to be attached to the request: a) certificate of registration in the *Camera di Commercio*, b) copy of the employment contract which has been sent to the immigrant worker with the condition that the *permesso di soggiorno* (residence permit) will be released immediately after entry.
- (b) The employer files the '*autorizzazione al lavoro offerto*' to the *Questura* (city police headquarters) of the region in order to apply for the '*autorizzazione per l'ingresso*' (authorisation for the entry of the immigrant).
- (c) The '*autorizzazione al lavoro*' is sent via the Italian Embassy or Consulate to the immigrant employee for the issuing of the entrance visa to undertake employment in Italy.
- (d) Within eight days after entry, the foreign employee has to report personally to the *Questura* to apply for a '*permesso di soggiorno per lavoro subordinato*' (residence permit for work purposes) submitting with it the following documents: passport and visa.
- (e) Within five days after entry the employer has to declare the initiation of the contract in the *Direzione Provinciale del Lavoro* and request the '*libretto di lavoro*' (work book for the payment of welfare contributions) for the immigrant employee.

The procedure for self-employment is slightly different:

- (a) The foreign worker who wants to enter Italy to search for employment has to be enlisted as a potential economic migrant in the Italian Embassy of his/her own country by demonstrating that he/she has the economic means to support him/herself while searching for a job in Italy.
- (b) The immigrant offices of Italian trade unions or other voluntary associations then have to be contacted in order to ask for a '*garanzia*' (guarantee) offered by an Italian sponsor. Alternatively the potential immigrant worker has to contact the relevant administrative authority in Italy to ask for the availability of work in the market for the profession that he/she wants to exercise in Italy. The relevant authority has to send a '*dichiarazione*' (declaration) which specifies that there are no reasons whatsoever that an '*attestazione*' (certification) cannot be issued for the specific applicant (such a certificate is issued by the regional *Camera di Commercio* where the foreign worker wishes to undertake employment).
- (c) The potential foreign worker has to acquire the '*autorizzazione all'ingresso*' from the *Questura* by filing the sponsor's *garanzia* or the *attestazione*. The association which offered the guarantee, or the authority which issued the certificate, has to send an authenticated copy of it to the *Questura* as well, together with a list of the number and names of foreigners for whom it guarantees.
- (d) The '*autorizzazione all'ingresso*' is sent to the immigrant through the Embassy within 60 days after it has been granted by the *Questura* and the visa is released.
- (e) Directly after entry, the application procedure for *permesso di soggiorno per lavoro autonomo* (residence permit for self-employment) at the *Questura* has to be initiated, and

- (f) The immigrant has to register in the *'liste di collocamento'* (job list) at the *Ufficio di collocamento* (employment registry office).

The process outlined above is time- and effort-consuming, albeit clear. Nonetheless, the large number of up to now undocumented immigrants and, most importantly, the large number of documented ones with irregular jobs, shows that the success of the respective policies has been limited. One explanation for this failure lies in the structure of the labour market and the large informal sector that exists in Italy, independently from migration. A second factor, we believe, lies in the informal practice codes and discretionary practices that pervade the daily routine of Italian administration, which not only complement when necessary but also distort the letter of the law.

## **6. Italy's policy and institutional particularities**

The most striking effect of the immigration policy is found in the gap between the stated aims of policy makers and the outcome of their policies. It has been argued that this failure to enact and implement effective immigration controls is largely the result of the economic function of immigrants and the political limitations under which liberal democratic societies operate. It is our contention however here that one important factor that affects immigration policy implementation relates to the organisational culture and structure of the relevant public services. It is thus worth making some preliminary remarks concerning the Italian case and the problems arising – and solutions occasionally adopted – in policy implementation.

Two initial general observations are useful here:

- (a) one has to acknowledge that, as elsewhere, the regulation of flows and the provisions aimed at incorporating foreigners in Italy have been reflecting the political will on the issue. It is not in fact entirely clear whether it was the political perception that moved from an under-evaluation to an over-evaluation of the phenomenon in Italy and, consequently, instigated the intensively negative public opinion about the effects of immigration on the country; or whether it was the public alarm that necessitated the adaptation of immigration policy into becoming a strict and severe one in the recent years (this coincides with the Italian integration into the Schengen area);
- (b) Italy is in a period of transition: The state is going through changes in its political organisation as much as in the institutional system. One field where very substantial transformations are underway is the administrative one. Efforts to modernise the public administration have influenced the implementation and enforcement of immigration policy.

The preparation of a single text for immigration provisions (law n. 40/1998) marks a turning point in Italian policy. An in-depth analysis of recent immigration policy implementation in Italy has to take into account the following largely intertwined features concerning administrative action, relevant structures and organisational culture:

1. The distinction between the national and regional level in policy-making and the enforcement of immigration laws (with a large increase in the decision-making competence assigned to regional offices).
2. The lack of continuity in the actual policy provisions. Legal provisions need to be periodically attuned to changes in policy and society. Furthermore, in the immigration sphere, there is often a need for speedy political reactions to extraordinary events (Bolaffi, 1996). These imbalances contrast with the capacity to deal with immigration with a cohesive long-term perspective;
3. The administrative system is in transition. There is a lack of structural and/or operational continuity in administration, as mentioned above. In order to fight the inertia of old attitudes, a constant re-arrangement of offices, employees and competencies has recently been institutionalised;
4. The crucial role played by civil servants appointed to specific posts as experts. Their high decision-making position 'allows' them to put into practice, to a certain extent, their political proposals;
5. The importance of local, often *contra legem*, practices motivated by a number of possible causes, such as exclusive regional competence, discretion or specific organisational culture;
6. The structural ambiguity in decisions and competencies between authorities particularly in a system such as the Italian one, which produces heterogeneous group policies within the operation of one regional administrative body. Inconsistency along actual implementation flourishes, particularly when personal or political considerations also play a role.

In practice, a large proportion of immigrants in Italy are subjected to 'cases of self-contradictory and ambiguous pieces of legislation' and thus to the local authorities' discretion' (Zincone, 1998). The difficulties immigrants encounter are dealt with via *ad hoc* measures and there is much conflict between the ways in which different agencies react to the employment, education and housing demands of these groups. The fact that no state consultative bodies have been created for immigrants either at the state or at the city level, while a number of them are acting unofficially without the authority to participate or to have a formal part in the policy of the local government, creates additional problems.

Zincone (1998) describes a typical example of authority discretion with reference to naturalisation law and practice in Italy. More specifically, the Nationality Law (1992) is based on a *jus sanguinis* principle. The same law also introduces a *jus soli* element to the extent that it foresees the possibility for foreign children born in Italy and resident in the country to become citizens at eighteen. The Ministry of the Interior, using an administrative decree (1994) for the implementation of this section of the Law, ruled that nationality is protected by 'the rule of law' and thus requires an immediate inscription to the register of births – instead of a hospital certificate – in order to allow for the procedure to proceed. Such obstructionist attitudes and practices from part of the public administration produce inconsistency in law enforcement and allow for discretionary implementation. In addition, in the past, there have been accusations of undocumented immigrants' relative immunity in several of their trades due to some policemen turning a 'blind eye', for which they were rewarded (Zincone, 1998: 64).

Clearly, the specific legal situation of immigrants as non-citizens, and in many cases as undocumented residents, requires that provisions should be taken at an official, unofficial and/or voluntary level. In the co-ordination and the coverage of the diverse needs of the

immigrants, the need for measures from social services, city administrations, the voluntary sector, public funding, charities, health units and public organisations is obvious. On the other hand, with regard to administrative practices, with regard to undocumented immigration, Italian laws are easily flouted for political (conservative or liberal), social, civil and personal reasons. The fairly recent phenomenon of immigration has placed the political system and the society under stress, requiring it to adapt to new functional and cultural conditions. Thus, one of the side effects of this phenomenon is the emergence of local variation in a centralised institutional framework such as that of Italy.

With respect to the implementation of the law, therefore, local authorities improvise to an extent so as to meet the needs of immigrants. At the same time they are being influenced and/or pressured by NGOs, policemen, school administrators and other institutions (Quassoli, 1999) about the measures that should/need to be taken with respect to the presence of immigrants in the society and their integration. 'Integration' is a word which has very recently entered Italian public discourse, in line with the recent realisation and concerns of the people about the country's multicultural image.

## **7. Literature on recent immigration to Italy**

While in northern Europe there is substantial literature, empirical studies and estimates on the recent countries of immigration, to an extent comparable with the American scholarship in the field, in southern Europe such studies are limited. With regard to Italy in particular, such scholarship is extremely recent. Venturini (1996a; 1996b; 1997; 1998) gives an analysis of the immigration movements in Italy from the perspective of the Italian productive system and the labour market. The Italian labour market for immigrants is interesting in itself, even if it does not conform to the standard European models and classifications. According to the relevant literature, the role of immigrants in the Italian labour market during the 1990s has been characterised by the following features:

- (a) because of immigrant labour there has been an increase in the 'traditional' type of production (agriculture, traditional industry, familial services...) and a consequent reduction in the incentives to modernise the economic system in Italy, an effect that can and/or cannot be desirable at different times;
- (b) the economic role played by immigrants depends on the specific labour structure of the region in which they arrive. In regions where the regular occupation of immigrants is plentiful most of the immigrants tend to become regularised and, vice versa, there are regions where immigrants, mostly undocumented, are employed in the informal market;
- (c) immigrants have a complementary role in the north of Italy, where unemployment is low and the demand for the type of work that immigrants do is still high. In the south their role is more directly competitive, particularly in the informal labour market and agriculture. It is quite possible that immigrants carry out a more indirect, competitive role even in the north but the competition is more pronounced in the south where irregular occupation prevails.<sup>49</sup>

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<sup>49</sup> 'The traditional thesis that natives do not apply for similar positions does not exclude that competition exists. On the contrary, it can be the result of discouragement induced by wage lowering and by the reduced status of jobs in which foreigners are employed, i.e. indirect competition' (Venturini, 1996a: 41).

The lack of empirical studies from an economic point of view is due to the lack of official data on the average income of immigrants. However, there are various qualitative studies on the role immigrants play in the labour market in general and, more specifically, in the regional and occupational sectors, where they are employed. (Examples of this type of research and reviews can be found in Frey, 1992; 1995; Strozza, 1995; 1996; Natale and Guarini, 1996; and Zanfrini, 1997).

A large section of the Italian literature pays particular attention, in a very specific way, to the role that foreign workers play in the informal economy. There are many studies on definitions of the underground economy, the informal labour market and the effect of these two on the regular occupation of nationals and immigrants (Borjas, 1990; Pugliese, 1990; Venturini, 1996a; Reyneri, 1996; Baldassarini, 1997). Research is based to a large extent on estimates from ISTAT data on the *Contabilità Nazionale* (state logistics) about the total informal labour market. Results are to be interpreted with caution because of compositional effects, such as complementarity or competition between national and immigrant workers that are difficult to disentangle. Nevertheless there is agreement in the literature that the irregular activity of either nationals or immigrants has a limited competitive effect quite reduced on the regular jobs (Vicarelli, 1994; Lodigiani, 1997; Venturini and Villosio, 1998). Foreigners who entered the market in Italy did not bring changes in the way production is organised but are more likely to have helped to maintain existing methods of production. Other European countries, on the other hand, which faced immigration inflows much earlier, also faced great economic shocks, e.g. France with the repatriates from Algeria in 1962. In this respect, Italy is a particular case since in ISTAT estimates, the natives' wages do not appear to be affected by the proportion of foreign workers. Venturini explains this as a result of the rigidity of the institutionalised system for determining wages, which prevents speedy reactions to external changes such as an increase in the supply of labour (1998: 42).

The great attention that the Italian literature has paid to foreigners, in the study of the informal labour market, is due to the fact that informal economic work activities represent a sizeable element of the Italian productive system. 'The flow of immigrants towards Italy in recent years is marked by a high percentage of foreigners working illegally in the informal economy' (Dell'Aringa and Neri, 1987: 110). In short, the common thesis in the Italian literature about the economic effects of labour immigration in general can be summarised as follows: clandestine immigrants work in the underground economy and contribute to its expansion. The increase in the demand for labour, eventually shifts the economic resources of the official sector to the 'black' sector of economy.

The traditional theoretical approach towards explaining the migratory phenomenon also exists in Italy. Explanations concerning 'push and pull factors' are often schematised. On the one hand, there are authors who attribute the causes of migratory inflows in Italy to 'forced migration'<sup>50</sup> from the countries of origin. On the other hand, there are scholars who explain mass immigration in relation to the increased demand in the segmented labour market of Italy. In other words, immigrants serve as a complementary labour force in the official market, since the national labour force prefers more prestigious economic positions, and also caters for the underground economy.

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<sup>50</sup> In the recent Italian literature 'forced migration' does not only refer to asylum seekers and refugees from countries with intense political problems but also includes economic migrants forced by hardship and poverty in their home countries.

There are other theoretical studies that depart from such a dichotomy between push and pull effects and yet still, from an economic point of view, question whether such a model can be adjusted to explain the effects of immigration on the Italian labour market. This latter view in particular is characterised by high rates of unemployment for nationals (Dell' Aringa and Neri, 1987; Frey and Livraghi, 1996). A number of studies on immigration observe that some jobs are rejected by nationals and, hence, the respective economic sectors lack employees to cover their needs. In short, there is a shortage of labour in certain sectors, although, in general, the level of the economically active population in Italy is considered sufficient for the needs of the national economy. Nevertheless, there is a coincidental occurrence in research, statistics and estimates of both extensive demand for labour and unemployment. Therefore, by monitoring the economic behaviour of Italian workers, studies assume that in Italy the distinction between good and bad jobs is very pronounced. As far as immigrants are concerned, especially in the south, they are mainly employed in low-skill low-paying jobs. However the same studies are very reluctant to draw conclusions as to the extent to which the existence of low-paid, low-status jobs has discouraged workers present in local labour markets to the point that relative labour shortages boosted immigration.

An equally large number of studies concentrate on the effects of labour immigration to the country according to the length of stay, i.e. short or extended. The various analytical statements would concur with the conclusion that for short periods of time the inclusion of foreigners in the Italian society and economy has a favourable effect on the national economy. The argument is that inflows of migrants may not be detrimental to the Italian society and, as far as the economy is concerned, migrants are employed in those occupations that the natives find unacceptable (Djajic, 1997). Further study is of course needed but, still, in the long run immigration can be seen to benefit Italian society because it provides human resources for the economy as well as multi-cultural influences for a post-industrial society. This approach is in line with models used in the European and the American literature, opening up the recent, new and more suggestive fields of study in the topic.

Out of all the studies carried out, there are very few dealing with the impact of immigration on the social sphere. This is done within a rather progressive political discourse. These studies mainly monitor public opinion and assume that immigration has a negative impact on the public coffers. In general, empirical studies analysing the costs and benefits of immigration for the societal order do not consider the Italian system in its unity but rather base their analysis on specific groups in Italian society (Greenwood and McDowell, 1986; Simon, 1994; Ulrich, 1994; Pittau, 1998).

One can easily note, even from this short review, that the Italian literature mostly and broadly tries to give an answer to the following question: 'is the overall immigration phenomenon economically positive or negative for the citizens?' Thus, the recurrent themes, which ultimately limit the approaches to the study of immigration are a) the extent to which the immigrant work force complements the Italian labour market and consequently b) the extended irregular and/or illegal aspect of immigration in Italy which is related to the equally extended basis of the underground economy in Italy.

## **8. Discussion**

In conclusion, this report outlines the immigration situation in Italy showing how the Italian experience with immigration differs from that of the most common immigration countries but also hinting at significant areas of convergence. It has been argued that one of these similarities between immigration-receiving European countries in the way they have dealt with the recent immigration phenomenon could be the inefficient implementation of immigration policy. This is seen as a result of the important economic function of immigrants and the political-structural limitations under which European democratic societies operate. However, as our report shows, there are important margins for discretion and semi-official or unofficial initiatives in policy implementation that are due to the overlapping of competencies between different offices at the same territorial level (national, regional or provincial), the complexity of the bureaucratic procedures involved, the often personal character of authority within Italian administration, as well as the current re-structuring and modernisation of this administration.

## Appendix I

**Table 1: Top 15 foreign nationalities of developing countries, 1990-1999**

Country	1990	1996	1998	1999
Morocco	80,495	119,481	145,843	139,305
Albania	2,034	63,976	91,537	105,112
Philippines	35,373	57,071	67,574	59,985
Tunisia	42,223	44,821	47,261	42,493
F.R. of Yugoslavia	30,121	44,259	40,848	37,677
Romania	7,844	31,673	37,114	46,568
China	19,237	29,073	38,038	44,115
Senegal	25,268	31,870	35,897	34,041
Poland	17,201	27,375	28,199	26,704
Sri Lanka	13,214	24,920	31,294	28,816
Egypt	20,211	23,785	27,664	26,749
Peru	5,385	21,738	26,832	25,725
Brazil	14,555	19,417	19,747	17,810
India	11,412	19,887	25,320	23,911
Croatia	-	18,865	17,661	15,425
Top 15 Developing Countries	324,573	578,211	680,829	647,437

Source: Censis, Ministero dell' Interno and Caritas, 1999

**Table 2: Non-EU foreigners enrolled in employment offices, by qualification and status, 1995-1998 (total and %)**

Sector	1995		1996		1997		1998	
	No	%	No	%	No	%	No	%
Unskilled worker	71,945	73.1	107,623	73.3	124,620	80.7	151,723	73.8
Skilled worker	20,312	20.6	28,365	19.3	43,649	13.7	41,115	20.0
Specialised Worker	3,395	3.5	6,042	4.1	5,940	4.1	7,813	3.8
Clerical	2,765	2.8	4,888	3.3	3,635	1.5	4,934	2.4
Total	98,423	100	146,912	100	178,850	100	205,594	100
Seeking first job	53,994	54.9	93,290	63.5	116,131	65.3	74,423	36.2
Unemployed	44,423	45.1	53,625	36.5	61,713	34.7	131,162	63.8
Total	98,423	100	146,912	100	178,850	100	205,594	100

Source: Censis, Ministero del Lavoro and Caritas, 1999

**Table 3: Origin of applicants for amnesties in 1990, 1996, and 1998**

Amnesty Year	1990		1996		1998	
	v.a.	%	v.a.	%	v.a.	%
European Union	3,742	1.8	7	-	-	-
Other W. Europe	325	0.2	24	-	4	-
East Europe	18,259	9	65,344	25.5	80,914	37.1
Europe	22,322	11	65,375	25.5	80,917	37.1



N. Africa	79,921	19.5	64,092	25.1	39,239	18.0
E. Central Africa	11,423	5.6	5,343	2.1	3,324	1.5
W. Africa	28,019	13.8	33,314	13	31,879	14.6
S. Central Africa	78	-	27	-	23	-
Africa	119,439	59	102,867	40.2	74,465	34.1
East Asia	21,910	10.8	35,993	14.1	21,508	9.9
South Asia	16,205	8	25,068	9.8	26,744	12.3
M. East/Central Asia	7,879	3.8	1,700	0.6	889	0.4
Ex-USSR	-	-	414	0.2	3,363	1.5
Asia	45,908	22.7	63,175	24.7	52,502	24.1
N. America	1,229	0.9	257	0.1	148	0.1
S. America	13,116	6.2	24	9.4	9,668	4.4
America	14,380	7.1	281	9.5	9,810	4.5
Oceania	269	0.1	70	0.1	33	-
Stateless	111	0.1	5	-	456	0.2
Total	202,130	100	255,773	100	218,190	100

Note: Data for those 1990 cover those still with permits in 1998; for 1995/6 the data are for applications; for 1998/9 the data cover 70. 8% of the applications (218,191 out of 308,203).

Source: Censis and Ministero dell' Interno, 1999

**Table 4: Foreigners by region of permit, age and sex, 1999**

Region of issuance of permit	Age							
	0-18		19-40		41-60		61+	
	Permits at 21.9.99	% increase over 31.12.98	Permits at 21.9.99	% increase over 31.12.98	Permits at 21.9.99	% increase over 31.12.98	Permits at 21.9.99	% increase over 31.12.98
Val d'Aosta	202	13.5	1,708	13.1	413	4.3	165	6.5
Piemonte	6,300	10.4	53,727	11.3	13,022	5.9	3,717	6.7
Lombardia	13,092	4.1	177,661	14.3	46,228	4.6	15,555	4.2
Liguria	2,910	19.1	18,885	13.5	7,291	4.4	3,882	0.6
Trentino-Alto Adige	1,422	92.7	20,409	18.2	5,536	8.7	2,748	0.4
Veneto	8,531	52.2	81,895	27.8	18,789	13.7	4,084	12.3
Friuli Venezia	3,136	34.7	21,213	11.9	9,019	4.7	2,656	3.9
Emilia Romagna	6,575	41.6	71,495	19	16,448	1.6	3,689	10.5
NORTH	42,168	36.4	446,903	16.9	116,792	7	36,505	5.1
Toscana	6,461	104.1	60,119	58.8	17,498	26.3	4,872	13.7
Umbria	2,167	47.6	17,178	16.9	1,141	12.3	1,127	2
Marche	2,314	51.4	20,483	12.8	4,408	12.6	1,052	17.1
Lazio	6,714	53.7	131,894	9.6	49,633	1.6	25,662	-0.5
CENTRE	17,656	67.8	229,674	20.2	75,677	7.7	32,713	1.9
Abruzzo	1,225	27.9	12,279	11.4	2,719	6.2	667	12.3
Campania	3,150	36.7	39,870	17.7	13,830	5.6	3,511	2.2
Molise	134	55.8	1,234	26.5	343	11	73	10.6
Basilicata	242	70.4	2,216	37	542	13.9	86	26.5
Apulia	3,056	112.2	28,495	28.4	8,082	29.7	2,015	47.1
Calabria	1,186	77.5	9,701	8.8	3,028	4.3	466	18.6
SOUTH	8,993	60.6	93,796	19.3	28,544	11.6	6,818	15.1
Sicilia	3,721	54.5	37,539	15.8	11,352	11.9	17,760	18.8
Sardegna	419	49.1	7,249	6.3	2,592	2.7	462	1.1

Islands	4,140	53.9	44,788	14.1	13,944	10	2,222	14.6
Total	72,957	46.7	815,161	17.9	234,957	7.9	78,258	4.8

Source: Censis and Ministero dell' Interno, 1999

**Table 5: Foreigners with residence permit, by category of permit, (1990-1999)**

Permit Category	1990	1996	1998	1999
Contract work	177,212	544,037	447,721	559,513
Independent work	19,981	28,998	41,005	56,186
Study	75,653	745,650	29,878	29,380
Family	97,660	195,781	251,925	294,622
Chosen Residence	43,659	43,064	41,077	42,533
Religion	39,279	54,937	54,465	54,086
Tourism	68,968	29,950	9,465	14,742
Asylum	4,171	2,809	3,362	3,737
Asylum Request	614	1,093	2,793	1,767
Health	2,681	2,962	2,837	3,087
Sailors awaiting embarkment	107	16	0	0
Awaiting work papers	20,103	3,668	855	832
Awaiting emigration	4,833	105	11	11
Special measures with work permit	53,994	5,062	1	10,447
Awaiting adoption	3,659	7,492	4,907	5,981
Awaiting foster care	97	1,102	1,798	2,746
Permit ex Dublin conv.			4,437	3,535
Awaiting contract work			66,718	60,507
Temp. Nulla osta for Albanians			9	1
Permit ex.Art16 L40			63	188
Temp. Protection for Kosovars				18,123

Source: Censis and Ministero dell' Interno, 1999

**Table 6: 1998 Amnesty, applications and reservations by nationality (27/7/1999)**

Country of origin	% of all reservations	% for Independent or Atypical Work	Family Reunification
Albania	18.1	5.7	3,393
Romania	10.7	7.2	439
Morocco	10.3	11	334
China	8.8	7.2	305
Nigeria	5.3	34.7	58
Senegal	5	55.1	31
Bangladesh	4.5	30.3	6
India	3.3	7.5	9
Pakistan	3.1	16.8	36
Poland	3	2.9	157
Ghana	2.9	48.4	63
Tunisia	2.7	9.1	70
Egypt	2.7	7.2	36
Algeria	2.3	13.5	28
Ecuador	1.6	6.7	88
Yugoslavia	1.5	15.7	190
Macedonia	1.4	5.2	79
Sri Lanka	1.3	10.1	54
Peru	1.1	2.4	123

Philippines	0.9	1	83
Ukraine	0.8	4.3	35
Bosnia	0.7	23.1	87
Moldavia	0.6	9.8	11
Colombia	0.6	7.4	61
Bulgaria	0.6	5	56
Ivory Coast	0.5	34.8	48
Top 26 nationalities	94.3		5,880

Source: Censis. Ministero dell' Interno and Caritas, 1999



## Chapter 5: The British Case

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### 1. Introduction: Immigration policy, national identity and enforcement practice

Immigration control has been an important topic in British politics since the late 1950s. While *significant* progress has been made – after decades of ethnic minority community struggles against racism – in accepting and integrating existing populations, controls on further immigration from New Commonwealth and other Second and Third World countries are strict, with only some relaxation of procedures for family reunification in recent years. At the present time, a media-led ‘moral panic’ about the rise in asylum applications has put this aspect of immigration (the focus of policy in the later 1990s) high on the political agenda.

The UK government – which is relatively late to reform this aspect of law and policy among EU members – is now looking to align itself with other EU countries, and is implementing measures borrowed from Germany in particular. An important part of the urgency stems from a bungled attempt to ‘modernise’ the implementation of immigration controls. In 1996, the Conservative Minister, Ann Widdecombe, introduced computerisation of applications, which was so unsuccessful that a backlog of 103,000 cases (some of them 4 years old) was recorded in 1999. Hence the present methods for crisis management stem as much from implementation as from policy failures.

The Immigration and Asylum Act 1999, is based on the assertion in the White Paper (Home Office, 1998) that the rise in asylum applications stems from ‘a substantial increase in the numbers of economic migrants seeking a better life for themselves and their families’ (para 1.3). The main measures, coming into force at the beginning of April 2000, are:

- (a) Speeded-up determination of asylum cases, and streamlining of appeals.
- (b) Vouchers worth £35 a week for an adult to replace welfare benefits, for applicants at the port of entry as well as in-country applicants.
- (c) Accommodation provided on a ‘no-choice’ basis, and asylum seekers dispersed around the country.
- (d) Regulation of immigration advisers, blamed for ‘unscrupulous’ exploitation of the rules and of their clients.
- (e) New legal framework for the detention of asylum seekers.

However, recent research suggests that *the* attraction of the UK for those who acknowledged economic motives for migration was opportunities for undocumented work, and that most of these come as tourists, not asylum seekers (Jordan and Vogel, 1997; Düvell and Jordan, 1999). The UK’s much-vaunted ‘flexible labour markets’ conceal a sector of casual work ‘off the books’, and in London much of this is occupied by undocumented immigrant workers.

Since 1997, the New Labour government has been attempting to address unemployment and 'benefit fraud' by improving incentives for claimants to leave social assistance for low-paid employment, and by clamping down on the shadow economy. Tax credits have been introduced to supplement low pay, and to try to counter the unemployment trap; the 'New Deals' have directed unemployed claimants towards work and training, under threat of losing benefits (DSS, 1998). Unemployment, specially among young people, has fallen significantly.

However, the topic of shadow work has been treated as quite separate from that of asylum and immigration. There are almost no references to undocumented work by immigrants in the White Paper, and no provisions in the Act. In the current politics of immigration in the UK, both main parties see the benefits system as the main element in the 'soft touch' that has made the UK attractive. This is in line with a strong tradition of regarding immigration as motivated by welfare provision, and immigrants as threatening to congest or compete away collective goods.

Enforcement practice reflects the politics of immigration in the UK, and national identity as a 'world society', an important centre for international finance and business, a former empire, and a successful multicultural polity. It also reflects the insular, xenophobic and competitive nature of UK culture, the populism of the current government, and the fragile balance in political and social relations that sustains this identity.

By long political tradition, the UK is a liberal individualist polity, with more affinity to the USA than with Western Europe (Dyson, 1978; Jordan, 1985; 1996). Citizenship is conceived as a set of rights and competencies that allow individuals to compete in an orderly way in an economic market and a political democracy. Hence nineteenth-century liberal notions of free trade and the open society (Popper, 1950) feed readily into global economic trends, and allowed Margaret Thatcher to embrace and mobilise many of the forces of 'creative destruction' (Schumpeter, 1936) that other European countries have resisted. Hence the UK prides itself on its contribution to the global financial system and world trade, on the fact that English is the international language of commerce, and that London is an important world cultural centre. But, having given up many of the institutions for restraining competition and enforcing solidarity that were part of the post-war welfare state, UK national identity is fragile and insecure.

Part of the justification for immigration control policies directed at black and Asian people from the New Commonwealth has always been that policies for racial equality and good race relations depend on such restrictions.

'The Government believes that a policy of fair, fast and firm immigration control will help to promote racial equality. One of this Government's central themes is tackling the problems of racism and creating a society in which our citizens, regardless of background or colour, enjoy equal rights, responsibilities and opportunities. The promotion of racial equality has, therefore, been high on the Government's agenda since it came to power' (Home Office, 1998, para 2.3).

The UK government can justifiably claim that it has, following the lead taken by the USA in legislating against various forms of discrimination, especially in the workplace, given a lead to other EU states on issues of racial equality. However, part of the cost of this has been a far tougher approach to the policing of its borders, and to the arrest, detention and removal of 'immigration offenders', than prevails in other EU countries. Far from

apologising for these features of immigration control practice, New Labour insists that they must continue – partly for the sake of its racial equality programme.

‘The main focus of UK immigration controls has traditionally been at the point of entry ... These controls match both the geography and the traditions of the country and have ensured a high degree of personal freedom within the UK. This approach is different from practice in mainland Europe where, because of the difficulty of policing long land frontiers, there is much greater dependence on internal controls such as identity checks’ (Home Office, 1998, para 2.9).

Here it can be clearly seen that the UK’s national identity as an open society, in which free exchanges can take place, both between citizens, and in global market transactions, rests on the notion of strong and relatively impermeable borders. Furthermore, its identity as a plural and diverse society, with black and brown as well as white British citizens, all enjoying equal rights, depends heavily on these structures. Asylum is now seen as a threat to this identity, these controls, and raises fundamental insecurities – despite the relatively low volume of asylum applications, particularly in comparison with Germany.

However, the UK was characterised by the very low numbers (around 500 nationally) of immigration control staff deployed for internal operations, from 2000 on slowly increasing. In this sense, once immigrants have entered the UK they are less likely to experience checks by immigration staff than in most EU countries. But, when ‘immigration offenders’ are apprehended, they experience high rates of removal and deportation by European standards. Here again, recent trends in implementation must be understood against a background of policy vacuum or policy failure, and bungled attempts at ‘modernisation’. UK systems for adjudication and appeals over asylum have not kept pace with the fluctuating, but always historically high, rate of applications, and the enforcement services have been drawn into a set of reactive responses, always shaped by the inadequacies of those other processes.

## 2. Factors in immigration control

### 2.1 Britain’s ethnic minority population

Britain’s immigration, the settlement of its immigrants and the development of its ethnic minority population is very much determined by its colonial and imperial past and its particular cultural and political links to its former colonies.

The most recent census dating from 1991 distinguishes between ethnic minority population and country of birth, giving detailed figures on ethnic minorities although it does not satisfactorily distinguish between ethnic minority British citizens and ethnic minority foreigners.

**Table 1: Ethnic minority population in the UK**

	Number	% of population	% born in UK
Total population	54,888,844	100	93.2
White*	51,874,000	94.5	95.9
All ethnic minorities	3,015,050	5.5	47.0
- Black Caribbean	500,000	0.9	53.5

- Black African	212,000	0.4	37.1
- Black Other	178,000	0.3	84.8
- Indian	840,000	1.5	42.0
- Pakistani	477,000	0.9	50.5
- Bangladeshi	163,000	0.3	36.8
- Chinese	157,000	0.3	29.2
- Other Asian	198,000	0.4	22.4
- Other	290,000	0.5	60.2

\* Includes Irish, Turkish and Greek Cypriot and Poles

Source: Census 1991

The largest single group are traditionally Irish people, who for 150 years represented the main source of immigration to the British mainland. In 1971 about 900,000 citizens claimed Irish descent in some way. Rees (1978) calculates that 10% of Britain's population are descendants of such immigration.

Nearly half of Britain's ethnic minority population were born in the UK, and 'it is estimated that some three-quarter of them are British citizens'(Commission for Racial Equality 1995: 1). 54 ethnic or national groups larger than 10,000 individuals have been identified, whose people were born abroad. 19 have more than 50,000 members.

**Table 2: Country of birth and size of community in the UK**

Country	Number	Country	Number
Irish Republic	592,000	Cyprus, Greek and Turkish	78,000
India	409,000	Poland	74,000
Northern Ireland	245,000	Australia	73,000
Pakistan	234,000	Hong Kong	73,000
Germany	216,000	South Africa, Black and White	68,000
USA	143,000	Canada	63,000
Jamaica	142,000	Middle East	57,000
Kenya	112,000	France	53,000
Bangladesh	105,000	Uganda	51,000
Italy	91,000		

Source: Census 1991

In all, some 200 languages are spoken. Regarding major world faiths other than Christianity, about 1.5 million are Muslims; 400,000 are Hindus; 400,000 are Sikhs; 300,000 are Jews and 120,000 are Buddhists (CRE, 1995).

Nearly half of Britain's ethnic minority population is under the age of 25.

Britain's ethnic minorities are not evenly distributed over the country but tend to live in England only (97%). Conurbations and cities are the main settlements, the vast majority, 47% or 1.3 million lives in London, major places of settlement are also Birmingham (207,000), Manchester (148,000) and Leicester (90,000). In some boroughs of London their proportion is as high as 45% of the population. They tend to form clusters; particular groups are concentrated in some cities or London boroughs, although there have never been US-American like ghettos. Some places, cities or boroughs can be identified with a particular ethnic minority group, for example: London/Bethnal Green with Bangladeshis; London/Southall and Birmingham/Soho with Sikhs; London/Brixton with Jamaicans;



London/Hackney and Haringey with Turks; London/Tottenham with Jews; London/West Kensington with Poles. Such areas are characterised by an organic community, cultural, social, political, religious amenities and a net of ethnic businesses serving the communities' needs.

Ethnic minorities still suffer from disadvantage despite strong efforts to uphold equal rights and opportunities. Unemployment still tends to be twice as high as for white people, for example 18% as compared to 9% in 1995, (CRE, 1995). Discrimination or racial harassment are frequent occurrences (see CRE, annual reports). Ethnic minorities may also face discrimination in housing matters (London Research Centre, 1993) or by the police (Institute of Race Relations, 1987). On the positive side, ethnic minorities tend to be in further and higher education in higher proportions than their 'white' counterparts (CRE, *ibid.*)

## **2.2. Undocumented immigrants, dimensions and figures**

The overall number of people arriving at British ports, in 1993 for example, was 57 million; only 60,000-70,000 passengers a year are subject to further enquiries (National Audit Office, 1995). Any figures for illegal immigration have to be evaluated against these numbers. Officially, the Home Office stated in 1996 that 'any estimate of the full extent of illegal immigration ... including people working in breach of their immigration conditions ... can be no more than speculative' (Home Office 1995, para. 3). Also the National Audit Office (NAO) confirmed in 1995 that 'the number of immigration offenders cannot be estimated with any confidence'. In addition, the Controller and Auditor General also concluded that 'the total cost to public funds (of immigration offenders) is unknown' (NAO, 1995). Despite such doubts several estimations have been given by several sources. In 1973, MacDonal QC quoted that there might have been 'perhaps thousands' of 'visitors [who] technically have overstayed ever since' the mid 1960s (*Race Today*, 5, 6, 1973, p. 172). In 1978, the CRE stated that 'the problem of illegal immigration into the country does not appear to be a large one, judging by the number of people who came forward to avail themselves of the two amnesties which were granted during the period April 1974 to December 1978 (i.e. under 5,000) (CRE, 1979: 7). Between 1973 and 1983, 4,950 illegal entrants were removed, in the same period 14,787 deportation orders were issued; in 1983, 983 people were dealt with as illegal entrants, 550 were removed or departed voluntarily (Gordon, 1985: 5). The number of unauthorised workers detected in 1988 was less than 4,000 (Home Office, 1995); the number of persons against whom action was commenced as illegal entrants was 1,500 during the first two quarters of 1988 (Hansard, 21.6.89, p. 136).

Migrants from Turkey were the second largest group of illegal entrants (180) after Nigerians (229); the number of East Europeans was quite small (34). The Home Office's 1991 statistics on illegal entrants stated 4,446 cases with a 35% increase since 1990. The overall number of immigration offenders (illegal entrant and breach of condition) rose from about 7,000 in 1989 to 10,300 in 1993 (NAO 1995: 20). The methods of entering illegally are varied and fell into five main categories: deceiving the immigration officer (declining from 62% of all detected cases in 1989 to 46% in 1993), document abuse/false identity (rose from 13% in 1989 to 22% in 1993; some 3,300 fraudulent documents were found on arriving passengers in 1993); clandestinely/without leave of an immigration officer (rose from 8% in 1989 to 19% in 1993); absconder from temporary admission (fell

from 10% in 1989 to 4% in 1993); others (rose from 7% to 9% in the same period), (NAO 1995: 19). Out of those removed in 1994 over 20% were from Europe, 25% from the Indian subcontinent; out of those deported again 20% were from Europe and 15% from the Indian subcontinent (Select Committee on Social Security, 23.11.95). By 1995 the number of forged or falsified travel documents detected rose to 4,486 (Hansard, 6.6.1996). The latest available figures also show a steady increase in those absconding, whilst the number of illegal entrants removed has increased steadily.

**Table 3: Persons removed as illegal entrants between 1980 and 1994 and persons persecuted of knowingly facilitating the entry of an illegal entrant**

Year	Number removed	Knowingly facilitating illegal entry
1980	1,938	
1981	1,601	
1982	1,315	
1983	1,196	
1984	1,357	
1985	1,425	21*
1986	1,552	25*
1987	1,993	41*
1988	3,047	41*
1989	3,839	28*
1990	3,762	46*
1991	5,302	73*
1992	5,830	63*
1993	5,484	33*
1994	4,308	124*

Source: Hansard, 19.12.1995

\*Knowingly facilitating illegal entrants, source: Hansard, 9.1.1996

Amongst the ten main groups of illegal entrants were Indians and Nigerians, followed by Poles, coming third (451 persons); there then followed Pakistanis, Ghanaians, Jamaicans and Bangladeshis, with Turks coming eighth (145 persons) (Hansard, 19.12.95).

In 1995, the number of illegal immigrants removed was less than 5,000, this number had fallen steadily since 1992 (Hansard, 29.11.95). The Trades Union Congress (TUC) noted that ‘the number of prosecutions for working illegally under section 24 (1)(b)(ii) of the 1971 Immigration Act in 1994 was 12, just 2.4% of the annual number of prosecutions for misuse of NI [National Insurance] numbers’ (TUC, 1996: 3, referring to Hansard, col. 781, 29.11.95). On the other hand, the same Home Office document states that in 1994 some 10,000 migrants were detected working illegally while being in the UK illegally or while not entitled to work. It was conjectured that this may ‘only be a small proportion’ of all working illegally. Alternatively the NAO (1995) qualified that by stating ‘relatively few cases (of alleged offenders) are subsequently confirmed, partly because departure records are incomplete and partly because of poor screening of the cases referred for investigation’. Following a BBC report in 1997 the Home Office estimated the number involved in illegal immigration at 10,000 annually; the BBC report however gave its own estimation of up to 20,000 (BBC 2, *Panorama*, 14.7.97) The latest study carried out on behalf of Haringey Council on the refugee community in this London borough revealed that 48.1% of a sample of 949 respondents had an unsecured immigration status. 27.2% had temporary admission, 10.9% had an initial refusal but were pursuing an appeal/judicial

review, whilst 1.9% had been finally refused but not removed (Haringey Council, 1997). According to immigration enforcement agencies, their work in detecting offenders ‘may save us much as £19m a year in income support’ (NAO, 1995: 20).

### 2.3 Particular features in immigration characterising the 1990s

During the 1990s migration, immigration and settlement was characterised by rising passenger numbers, rising applications for citizenship and the inflow of asylum seekers.

**Table 5: Passenger arrivals in millions**

	1985*	1990	1991	1992	1993	1994	1995	1996	1997	1998
Numbers	37.6	50.3	48.7	54.2	57.7	63.0	68.1	-	79	85

\* For comparative purposes

Source: Immigration and Nationality Directorate (IND), 1996; IND, 1999

All figures are estimations as ‘the immigration service does not systematically record the movement of passengers into and out of the United Kingdom’ (NAO, 1995: 2) Taking the year 1995, 11 major statuses can be identified.

**Table 6: Passengers, status and number**

Status	Number
British citizens	44,900,000
EEA nationals	13,600,000
Non-EEA nationals of whom	9,620,000
- ordinary visitors	5,490,000
- business visitors	1,310,000
- students	284,000
- work permit holders and dependants	52,000
- transit passengers	948,000
- Returnees after temporary absence	1,370,000
- others	166,000

Source: IND 1997: 7

During the 1990s, about 360,000 individuals applied for asylum, compared with only 53,000 between 1982 and 1989.

**Table 7: Asylum applications in the 1990s**

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Applications	26,205	44,840	24,605	22,370	32,830	43,965	29,650	21,190	46,000	71,160
Decisions*										
Granted % *	23	10	6	9	5	5	6	3,100	5,300	
E.L.R % **	60	44	80	64	21	19	14	4,000	3,900	

Sources: Refugee Council, (1997): Asylum statistics 1986-1996, London: Refugee Council; Refugee Council (1997): Statistical Analysis, London

\* Backlog on November 1999: 94,000 cases, *The Guardian*, 30.11.99

\*\* Full refugee status

\*\*\* E.L.R.: Exceptional leave to remain

The number of refugees and asylum seekers is estimated at between 295,000 and 350,000 individuals. The vast majority tend to settle in London, 85% of all refugees and about two thirds of all applicants, an estimated 250,000-300,000 (Haringey Council 1997). The main refugee communities are Indians, Pakistanis, Sri Lankans (Tamils), Ghanaians, Nigerians, Turks and Kurds, Somalis, refugees from the former Yugoslavia; considerable numbers of Ugandans, Kenyans, Zairians, Vietnamese, Ethiopians, Iranians, Iraqis and Sudanese.

Regarding naturalisation, 40,000 applicants were granted citizenship in 1995, a success rate of 89%, with 45,000 decisions outstanding. Available figures estimate to up to about 450,000 naturalisations in the 1990s. These cases represent individuals from all ethnic minorities as well as some 'white' communities. Another 130,000-plus Hong Kong residents have been registered as British citizens (Immigration and Nationality Directorate, 1996). In contrast to Germany, dual citizenship is no barrier to naturalisation, indeed most New Commonwealth and Pakistani immigrants of British nationality also held Pakistan, Nigerian or Jamaican passports.

**Table 8: Settlement and citizenship granted**

	1994	1995	1996	1997	1998
Settlement	55,000	55,000		59,000	70,000
Citizenship		40,000		37,000	54,000

Source: IND, 1997.

### 3. Immigration and nationality legislation, past and present

The post-war history of migration and immigration legislation is a history of immigration restrictions. British immigration policy was initially double-edged, distinguishing between non-Commonwealth aliens and Commonwealth citizens. British foreign policy as well as its immigration policy was and still is based upon and takes account of the background of the UK's colonial past, distinguishing between Old Commonwealth – Canada, Australia, New Zealand – and the New Commonwealth – India, Bangladesh, some former African colonies and Pakistan.

The first ever immigration legislation enacted was the 1905 Aliens Restriction Act. It was passed to control and prevent the then East-European Jewish migration, although it also applied immigration controls and contract labour schemes to all those who were not citizens of the British empire, whilst citizens of the empire were free from any immigration control. In 1914 the Imperial Act declared every person born in any part of the British Empire as thereby a natural born British subject. At that time, the legislation was not inspired by immigration restrictions – there was no overseas immigration then – but reflected British claims on these people. In 1948, the British Nationality Act was enacted, regularising their status as British citizens (Hall, 1988: 278).

In 1957, exceptional regulations were agreed by the original six member states for EEC citizens, rooted in the Treaty of Rome. This applied to the UK once it joined the EEC. Since 1957, freedom of travel, residency and work has more or less been guaranteed to citizens of EC/EU countries and in EU member states today, only the entitlement to

welfare benefits is restricted, usually to the relevant country of nationality as long as entitlement has not been gained by employment or legal residency in the UK.

Commonwealth citizens did not face any immigration restrictions and controls until 1962 when the first restrictions were introduced by the Commonwealth Immigrants Act to control rising numbers of overseas immigrants. It was particularly designed to target non-white New Commonwealth migration. It linked migration to work vouchers, the numbers of which were limited, effectively reducing primary Commonwealth migration, leaving entry for those other than workers mainly to wives, husbands and minor relatives. For the first time, deportation rules were introduced, at that stage affecting convicted offenders only. In 1965, the number of employment vouchers was reduced again, and access limited to those with particular skills, followed by a White Paper on Immigration. A further Commonwealth Immigration Act came into force in 1968 preventing further immigration from Asian Africans and, for the first time, making the failure to submit to an examination by an immigration officer a criminal offence. Only secondary Commonwealth migration remained. In 1969, an Immigration Appeals Act was added, mainly directed against immigration of minor relatives, husbands, parents and students, by introducing entry clearances.

New Commonwealth immigration up to the late 1960s was determined by two forces: on the immigrants' side was the migrants' desire to better themselves, to 'see the motherland' or to leave countries not meeting their expectations in respect of newly granted independence (namely Afro-Caribbeans). In fact many such migrants were actually refugees, victims of early ethnic or religious 'cleansing' (Indians in Pakistan, Pakistanis in India, Muslims in India and Hindus in Pakistan), expropriated by post-war policies (Pakistanis and Indians) or Africanisation policy (Indians in Uganda). On the other hand, the UK accepted and sometimes even actively encouraged and invited the migrant workforce for its post-war economic development.

In contrast to Germany, for example, the influx of south European migrant workers from Italy, Spain or Portugal never reached high levels. There were also never large scale recruitment or advertising schemes.

In 1971, the Aliens Restriction Act and the Commonwealth Immigration Act were replaced by the Immigration Act 1971, which distinguished between patrials and non-patrials, as well as between Commonwealth and United Kingdom citizenship, bringing not only primary Commonwealth immigration to an end but, more or less, migration for employment purposes, too. The 1971 Act also actually drew a distinction between migration for settlement, migration for work and for temporary purposes. The law distinguished between deportation following a recommendation by a court and/or an order by the Home Office, and removal by the immigration service without the right to appeal. The Act also made illegal immigration a criminal offence, making the removal of offenders possible. A new Nationality Act was introduced in 1981, distinguishing between three categories: British citizenship, British Dependent Territories' citizenship and British Overseas citizenship. British citizens are defined as people having close personal connections with the United Kingdom because their parents or grandparents were born, adopted, naturalised or registered as citizens or because of their permanent settlement in the UK. In 1987 the 1981 Act was followed by the Carriers' Liability Act and another Immigration Act in 1988. The mid-1980s saw a 'sharp rise in the number of asylum applicants' (HO, 1993: 7) responded to by visa restrictions imposed on 81 countries,

extended to 117 countries until 1996. 1993 saw the introduction of the Asylum and Immigration Appeals Act, which also introduced the fast track procedure for particular asylum applications. The subsequent law which came into force was the Asylum and Immigration Act of 1996.

Immigration and Nationality Acts are supplemented by the 1985 Immigration Rules and by 'internal instructions to immigration officers, containing guidance on the interpretation of the law and the rules' (Ardill, 1987: 10) Since 1996, these have been under review, whilst in the same year a Suspect Index System (SIS) was introduced to help staff to cope with their requirements (HOIND, 1997: 12) A further document is IL(Gen)37/91, which 'contains detailed instructions on the practice if decided on port level to detain an asylum seeker' (Immigration Service: General instructions to the immigration service – chapter 35, para 35.11.6).

Relatively new features are regulations on businesses under a provision of the EC Association Agreements, which in particular apply to East European states, Poland and since 1995 to Bulgaria, the Czech Republic, Romania and Slovakia. It effectively allows their citizens to come to or stay in the UK for the purpose of establishing a business.

In addition to acts and rules there are some informal but nevertheless written 'concessions' made regularly by the Immigration Service, which are known amongst advice officers, but these are not rules on which one can rely or for which an applicant can apply. These informal concessions are, for example, known as the 7-years or 14-years concessions, more or less preventing removal or deportation. But following recent changes only the 14-years concession has been left.

A most relevant factor is that the immigration authorities are administrating and investigating agencies only, with a strongly restricted power of execution. Immigration officers have no power to enter or search premises and although they have the power to arrest 'it is the policy of the [Immigration Service Enforcement Directorate] not to allow immigration officers to exercise such powers except in most exceptional circumstances' (UK Immigration Service, chapter 35, para 35.14.2 and 35.14.2.11). It is explained that 'a warrant is only allowed to be executed by police officers' and 'any arrest should be made by police officers', enforcement of immigration laws is subject to the 1984 Police and Criminal Evidence Act (PACE). This practice is going to change with the 1999 Asylum and Immigration Act but has not yet been implemented.

Due to the still valid official view 'the focus of United Kingdom immigration control has been, and remains, very clearly on frontiers controls, the United Kingdom intends to retain checks at its borders with other member states of the EU' (NAO, 1995: 14). The UK has indeed never joined the Schengen agreement and insists on border controls with other EU member states. Despite such an assessment, Gordon states that since the 1971 Act was introduced 'internal controls have become increasingly significant' (Gordon, 1985: 17).

The current British legal system for dealing with immigration is made up of three levels of frameworks: the Nationality Act, the Asylum and Immigration Act and the Treaty of Rome; all of which are of course interlinked. What has disappeared are the categories and their inherent distinctions between aliens and Commonwealth citizens; the privileged latter category has been abandoned and merged with the former category, to create a general new category treating all the same. The change in immigration and nationality legislation

reflects the UK's changing role in the post-war era, as well as its response to the industrial revolution in transport and communication allowing mass migration all over the world.

**Table 9: Chronology of immigration and immigration related legislation and rules**

<b>Year</b>	<b>Law/rule</b>	<b>Aim</b>
1905	Aliens' Act	Regulating East European Jewish immigration
1914	Imperial Act	Defining British subjects
1948	British Nationality Act	Regulating nationality
1957	Treaty of Rome [brought into force by the European Communities Act 1972]	Regulating EEC migration
1962	Commonwealth Immigrants Act	Restricting New Commonwealth immigration
1968	Commonwealth Immigrants Act	Restricting immigration of African Asians
1969	Immigration Appeals Act	Restricting relatives' immigration
1971	Immigration Act	End to Commonwealth immigration
1981	Nationality Act	Restricting nationality
1985	Immigration Rules	Regulating immigration control practice
1986	Immigration Act	First visa restrictions on New Commonwealth
1987	Carriers' Liability Act	Immigration control responsibilities imposed on carriers'
1988	Immigration Act	
1989	National Health Service (Charges to overseas visitors) Regulations	Health service restrictions on foreigners
1993	Asylum and Immigration Appeals Act	Regulating the asylum procedure
1993	Income Support (General) Amendment Regulations	Restricting asylum seekers' entitlement to benefits
1995	Social Security (Persons from Abroad) Miscellaneous Act	Restricting asylum seekers' entitlement to benefits
1996	Asylum and Immigration Act	Making irregular employment an offence
1996	Changes to Immigration Rules	Restricting asylum seekers' entitlement to benefits
1996	Several changes to Immigration Rules regarding visa requirements	Extending visa requirements to 117 countries
1997	Court ruling on 1948 Nationality Act and Children's' Act	Accommodation and food entitlement under such Acts
1996	Housing Act	Restricting asylum seekers' entitlement to benefits
1999	Asylum and Immigration Act	Complete review of 1996 Act

### 3.1 Work restrictions

Any migrant subject to immigration controls is also subject to work permits or permission to work. Each group is dealt with by a different authority or department. Permissions to work for refugees are issued by the Home Office; students or non-EU entrants with intention to work were dealt with by the Department for Employment and Education (DfEE). But since 2000, they right to work is granted automatically.

Work permits are issued for non-EU nationals to work for a particular employer in a particular job for a limited period. After four years these restrictions can be lifted, allowing resident status and free choice on jobs. 80,000 permissions on were issued in 1999, with a current annual increase of 20 %, the main occupations permitted entry with intention to

work are in information technology, banking, engineering, teaching and health services (doctors and nurses).

Overseas students were not entitled to work until they applied for a work permit and were then limited to 'taking employment in their free time or during vacations. Permission was only given if there is no suitable resident labour' (Home Office, 1993: 20). In 1994, stricter rules on students were imposed, such that there is 'no longer any discretion to allow a student to remain on a course at lower than university level who is attending less than 15 hours daytime studying (para 57 (ii)(b))' (*JCWI Bulletin*, 5, 6, 1994). All this has been relaxed in 2000. Migrants from the Commonwealth are entitled to enter the UK as working holiday-makers, as long as they do not work for more than half the time of their visit. Au-pairs are entitled to a two-year visit; working as au-pairs is restricted to 6 hours a day and work outside their host families is prohibited. They do not obtain work permits although according to the immigration rules they are defined as workers and are therefore provided with National Insurance numbers. Asylum seekers are only entitled to work – paid or unpaid (for example volunteering) – after six months of residence in the UK; which provision is not a right but a concession. If their asylum application is rejected within these six months and they appeal, they do not fall under this concession for a work permit and remain without it, otherwise they can then apply for a work authorisation.

However, a study by Bloch (1996: 43) shows that 86% of work permit applicants have to wait at least 6 months to get their permit, 14% more than a year. This leaves most applicants in point of fact at least 12 to 16 months without a permit. The requirement to obtain a work permit did not apply to family members until November 1997; either spouses or adult children, when applicants' dependants became entitled to work as well (HM Immigration Office, 29.10.97, Letter to Lloyd & Assoc. Solicitors, London). It used to be the case that asylum applicants whose applications had been refused and who had launched appeals were not entitled to work until their case was accepted again, a practice which was overthrown by the High Court (High Court, *Jammeh, Patel and others v. Home Office*, 30.7.97). Until the Home Office's appeal is decided the afore-mentioned groups are entitled to work (Immigration and Nationality Directorate (28.8.97): Judicial review of the employment concession for asylum seekers, letter to JCWI, London). Refugees, including those with 'exceptional leave to remain', receive a permit to work. Permit-free categories of work include seasonal agricultural workers on schemes, teachers on exchange programs, migrants with British grandparents, Commonwealth working holidaymakers, businessmen and people of independent means. Visa holders and visitors are not entitled to work at all. In 1996, with the new Asylum and Immigration Act, the employment of workers not entitled to work has become an offence (section 8), imposing on employers the duty to check the entitlement to work of any applicant subject to this law. So far hardly any prosecutions have taken place.

### **3.2 Welfare legislation referring to immigration**

Entitlement to social services and benefits is closely linked to immigration status, again linked to residential status. The 1982 National Health Service (NHS) regulations excluded anyone not 'ordinarily resident' from hospital treatment, further restrictions came into force with the 1989 National Health Service (Charges to Overseas Visitors) Regulations. Other services are linked to the status of residence, but whilst applicants have to prove that they are 'ordinarily resident' – which requires a lawful status – National Insurance



schemes are rooted only in simple residence. The 1985 Immigration rules tie up any leave to remain by requiring the ability to subsist 'without recourse to public funds', namely, Income Support, Family Income Supplement, Housing Benefit and homeless person's housing. In 1993, the Income Support (General) Amendment Regulations were changed exclusively affecting refugees, withdrawing their entitlement to 'urgent case' payment (*JCWI Bulletin*, 5, 4, 1993: 7).

Further restrictions issued by the Social Security (Persons From Abroad) Miscellaneous Amendment Regulations 1995, which came into force in 1996, have been more or less exclusively directed at asylum applicants, leaving all those applying from inside the UK without entitlement to the various social security benefits. This law affects up to 70% of all new asylum applicants, refused asylum seekers on appeal, temporary residents (such as students under particular circumstances), immigrants originally sponsored, and most applicants for temporary benefit under Regulation 70(3). In the same spirit, the Housing Act 1996 removed the right to child benefit and council housing from people not settled in the UK (*JCWI*, 1996: 13). And again in the same year, changes to immigration rules came into force changing the definition of 'public funds', effectively excluding immigrants from the welfare system. Sections 9, 10 and 11 of the 1996 Act confirmed these restrictions, as well as excluding illegal immigrants and overstayers from child benefit. Also excluded from social security benefits are asylum seekers applying in country or having lost their application and appealing against these decisions. But in the course of 1997, this policy was partly overturned by court decisions reinstating asylum seekers' entitlements to accommodation and limited assistance under the National Assistance Act 1948 (*The Times*, 10.10.1996) and the Children Act 1989. Local authorities are obliged to provide destitute singles with accommodation, basic needs and food, and families with accommodation and cash. In the education services, mandatory payment of tuition fees and students grants are limited to people who have been resident in the UK for three years, except people with full refugee status, but at a local level, funding can be obtained from some Local Education Authorities (Bloch, 1996: 35). New restrictions which hold that any course that involves 16 or more hours of study a week is deemed to be full-time, resulting in the withdrawal of students' entitlement to social security benefits, are affecting refugees in particular. Up to 30% of all refugees have to reduce their (language) training hours or will lose their entitlement to social security benefit (Bloch 1996: 25).

### **3.3 Settlement policy**

Up to 1999, no settlement regulations have been in force, either for immigrants or for asylum seekers, instead a *laissez-faire* policy has been in place, allowing immigrants and refugees to create or to settle within existing clusters and communities, where they would find community support. The only exceptions were resettlement schemes for Polish veterans (120,000) in post-war Britain; for Asian Ugandan refugees during the 1970s (40,000); for Vietnamese migrants during the 1980s and for Bosnians in the early 1990s. In 1996, the Social Security (Persons From Abroad) Miscellaneous Amendment Regulations 1995, which withdrew benefits from in-country asylum applicants, were partly overturned by court decisions which defined local councils' responsibilities for such needy residents under the National Assistance Act and the Children's Act to house and feed migrants. A widespread interpretation by local councils was to make housing a precondition for benefits, resulting in the first policy measures for dispersal and collective accommodation.

The 1999 Asylum and Immigration Act has introduced collective accommodation and dispersal nation-wide, undermining freedom of settlement for asylum seekers.

#### **4. Immigration authorities, enforcement and enforcement figures**

Responsible for immigration control is the Home Office's Immigration and Nationality Directorate, (HOIND) which is made up of ten divisions, separated into Policy and the Operations Directorates:

1. the Asylum and Appeals Policy Directorate
2. the European Directorate,
3. the Immigration and Nationality Policy Directorate,
4. the Finance and Services Directorate,
5. the Personal Management Directorate,
6. Immigration Service Port Directorate,
7. Immigration Service Enforcement Directorate,
8. National Asylum Support Service,
9. Integrated Casework Directorate, including the Asylum Group, Public Caller Unit and the Immigration and Nationality Enquiry Bureau
10. Casework Liverpool, including Nationality and Asylum

The Immigration Service is subdivided into two directorates, the Ports Directorate (ISPD) and the Immigration Services Enforcement Directorate (ISED), which was set up in 1991, and which also contains the sub-units, Illegal Entry Section (IES) I and II. Further internal units are the Immigration Service Forgery Desk (collating information and issuing a bulletin of detailed guidance on methods of forgery) and the Intelligence Desk. Only since 1991/92 has the Immigration Service been 'putting greater emphasis on intelligence information and enforcement activities' (NAO, 1995: 1) Detention centres, six in 1995, are also managed by the ISED but are increasingly run by contractors. Furthermore, HM Custom Service used to be part of the entry control system. Pre-entry controls are conducted by British Embassies and the Foreign and Commonwealth Office. Work permits are administered by Work Permit (UK) formerly known as the Overseas Labour Service of the Department for Education and Employment, but has in 2001 become part of the Home Office. Executive forces include the Illegal Immigrants Intelligence Unit of Scotland Yard, active in the 1970s, the Overstayers Tracing Intelligence Unit (OTIS), in force in the 1980s, the Criminal Investigations Division (CID) and the national police forces.

Attached to the IND is the South East Port Surveillance Team (SEPST), 'whose principal remit is the detection, apprehension and removal of clandestine illegal entrants attempting to breach the Channel Ports'. Allied to this is the Facilitating Support Unit (FSU), 'which investigates cases of suspected facilitation of illegal entrants' (Home Office/Immigration and Nationality Directorate, 1997: 5). Recently an Immigration Smuggling Unit has been formed, tracing illegal entrants at the ports and borders as well as networks beyond. In November 1997 the Home Office announced the launch of an Immigration Crime Squad to tackle racketeers (*The Guardian*, 27.11.97) Finally, based at the Immigration Service Enforcement Directorate is the Marriage Abuse Team and the Students Loan Fraud Desk.

Also of some relevance is the Asylum Fingerprint Bureau (AFB) attached to the Asylum Directorate. Further investigation is carried out by Scotland Yard's Organised Crime Group on corruption of Foreign Office officials involving the issuing of British visas in overseas embassies (*Financial Times*, 'Police investigate alleged corruption over visas', 23.1.97). Affiliated to the Home Office are the Voluntary Services Unit, responsible for the reception and resettlement of refugees, the United Kingdom Immigrants Advisory Service, formerly running the Refugee Legal Centre, and the partly Home Office-funded British Refugee Council. A long-standing and hotly disputed issue is that of internal immigration controls. Traditionally, no local authority or welfare service played a role in such controls. But in 1995, the Home Secretary announced new regulations, instructions and training courses, under which health and welfare officials and professionals would be required to report those immigrants claiming benefits and using services without proper status to the Immigration Service. A recent study by Newham Refugee Centre on refugees in the NHS found, that 57% of their sample stated that they did request details of immigration status at registration (NRC, 1996: 9).

In the education sector in 1996, an attempt was made by the DfEE to establish checks of immigration status in schools, with the intention of 'telling the Home Office' when 'reasonable suspicions are aroused that an applicant is in the UK without permission' (DfEE 1996a: Letter 7.6.96; DfEE 1996b: *Draft guidance – admission to maintained schools of children from overseas*, London). Even before the 1996 Act 'employers are already playing safe by adopting a more intrusive and intimidating approach than required under existing legislation' as evidenced by the work of the National Association of Citizens Advice Bureaux (NACAB, 1996: 2). According to the Immigration Law Practitioners' Association 'the provisions of the Asylum and Immigration Bill [now the Asylum and Immigration Act 1996] are seeking now to make employers part of the enforcement process, ...to act as policemen' (ILPA, 1996: 1). Indeed most offenders are not detected by the ISED but 'identified from information from third parties: a third as a result of calls from the police, typically when investigation of an unrelated offence raises doubts about a suspect's immigration status; and a quarter as a result of tip-offs from the public. Around 20% of offenders are identified by examining case files. Some 10% are detected as result of targeted operations or research into patterns of offending or areas of abuse' (NAO, 1995: 20).

The rise in enforcement may reflect three main developments, (a) the rise in passengers; (b) the dismantling of immigration rights, leaving less space for legal immigration or residence and (c) efforts to increase the efficiency of the immigration control agencies.

**Table 10: Enforcement figures**

	1990	1991	1992	1993	1994	1995	1996	1997	1998
Refused entry	19,180	18,270	14,947	16,738	17,223	19,147		25,000	28,000
Deported/removed	4,100	5,800	6,000	5,900	5,000	5,000	5,200	6,100	7,200

Source: Home Office, 1999

On the other hand, in a number of cases a policy of 'turning a blind eye' or a *laissez-faire* stance was adopted: not only in the cases of domestic workers, au pairs, overstaying working holiday makers and illegal employment in an urban setting and section 8 (employers). Also in the cases of unsuccessful asylum seekers, student applications or

bogus language schools, the immigration enforcement agencies seemed to not put a high priority on checking or enforcing matters (Bhaba, 1994; Düvell and Jordan, 1999). Only with regard to unsuccessful asylum seekers, has the New Labour government changed policy in 1998, by deciding to put enforcement on top of the priority list.

Immigration control, nationality or asylum matters, administration and enforcement is very much centralised with one body, the Home Office's Immigration and Nationality Directorate in London, which has some branches in other cities. But regarding enforcement issues the IND needs to co-operate with and rely on the police force. In respect of deportation, detention centres, pre-entry controls and work permits, some responsibilities have been shifted to other agencies. In 1996 the IND was trying to establish co-operation with other statutory agencies in order to implement immigration status checks; only the Benefits Agency responded positively to this initiative, all other agencies (for example, in housing or education) rejecting co-operation over immigration matters. Only recently have Registrars in London begun to co-operate over marriage matters. One can conclude that immigration control agencies appear to be acting in a rather isolated manner and that immigration status checks are an issue which other statutory agencies do not like to deal with.

Since 1999, the work of the Immigration and Nationality Directorate, along with the legislation on asylum and immigration, has been under review and reform involving several legal and organisational changes is likely soon.

## **5. Nationality policy, national identity and immigration policy<sup>51</sup>**

'Britain has traditionally favoured the free movement of capital and labour within the Empire' (Layton-Henry, 1989: 61). Until the mid-twentieth century the United Kingdom itself was a country of emigration, accustomed to supplying overseas continents with its people, even deporting its subjects as far away as North America and Australia. 'By the turn of the century, migration had become a conscious part of British imperial policy, and it was felt that encouraging emigration from Britain would help the economic development of the Dominion territories, strengthen ties with Britain, and increase the power of the Empire' (Layton-Henry, 1989: 59). Emigration was growing to such an extent – 2 million from 1919 to 1930 and 720,000 between 1946 and 1950, many of them highly skilled – that it became a cause of concern to some government bodies (Cheetham, 1960). Even between 1964 and 1981 emigration always outweighed immigration (Fothergill and Vincent, 1985).

However, other government representatives still opposed large scale immigration and 'every effort was made to repatriate the colonial labour that had been recruited to work in Britain' during war time (Layton-Henry, 1989: 61) The post-war era was characterised by such contrasting views on immigration. In 1948, when the Nationality Act was introduced it was not designed to encourage or allow large scale permanent overseas immigration into the United Kingdom. In any event, that time was characterised by the then absence of regular shipping lines or flight connections to the UK. In an era of independence movements and the collapse of the British Empire the 1948 Act was expressing a policy of

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<sup>51</sup> This paragraph is based on Düvell, F. (1996): *Die sozialgeschichtliche Dekodierung des 'schwarzen' Aufbruchs in Grossbritannien zwischen 1970 und 1989*, Bremen: unpublished doctoral thesis.

preserving the links of Commonwealth citizens to the motherland. National identity, carefully distinguishing between England as the cultural core, the United Kingdom as its white European body, the Old Commonwealth as its natural allies and the New Commonwealth as its extremities, was never intended to become uniform. But in post-war Britain these levels began to move and overlap, businesspeople as well as Commonwealth citizens then began making use of such legal opportunities and overseas subjects migrated to the UK in spite of the views of government bodies opposed to immigration. Only a few recruitment programs were in place; Commonwealth citizens generally came 'on spec', often facing initial unemployment before being absorbed by particular sectors or niches in the labour market.

The years between 1950 and 1980 were characterised by a host society not accepting its new role as an immigrant country, and defining its national identity through crude racism, segregationist policies, right wing extremist organisations and racist violence which kept its new residents on the margins of society. It took an era of painful conflicts, riots and burning cities for British society to realise that its immigration story was irreversible. Only from 1981, and in response to widespread 'black' inner city riots, were successive steps taken to deconstruct institutional and structural segregation and discrimination, to implement and enforce anti-discrimination policies and to offer affirmative action in order to allow social and political integration of ethnic minorities. By the late 1980s, and following another series of riots, such measures began to show some effect; clashes were dying down, the tension was eased and an atmosphere of positive changes began to spread. In the course of its racial equality policy and legislation a new national identity began to take shape as the UK became a multi-cultural, multi-ethnic and multi-religious society. Most significant, certainly, is that the majority of Britain's ethnic minorities at any time have had full citizenship, hence democratic rights, civil liberty and equal rights. The black struggle was less for rights as it was for the implementation and enforcement of these rights.

Until 2000, the UK was neither inviting nor encouraging further permanent immigration; citizenship was mainly granted to long-term residents and members of established immigrant communities. Temporary migration under different visas has been welcomed, whilst it has always been possible, through different mechanisms, to extend a stay, to become resident and finally to become a citizen. On the one hand integration and multi-ethnicity is promoted whilst on the other hand any further immigration is strongly regulated and restricted, and enforcement figures have risen significantly under New Labour. However, in 2001 policy changes to invite and accept further migration has been announced by the Immigration Minister of State (Roche 2000).

## **6. Anti-racist legislation, organisational culture and the state of civil liberties<sup>52</sup>**

In the UK, all discussions of policy, politics, organisational culture and educational curricula are inspired by and reflect Britain's strong tradition of democracy, civil liberties, individual rights and most recently its anti-racist legislation. All regulations, restrictions, controls and implementation matters are regulated and balanced by these forces.

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<sup>52</sup> See Düvell and Jordan 1999, conference papers.

There is no obligation on individuals to hold identity documents; nor is there a requirement to register one's residential address with any central or police authority, with the exception of the electoral register.

Most public services put a strong emphasis on clients' needs and clients' safety; data protection is rigorously observed too, and data exchange between different statutory agencies is limited. Social workers in the public services are to a certain extent advocates of putting clients' rights first, over and above enforcement measures. Public services tend to have an autonomous and self-reliant self-image, sticking closely to the description of their statutory responsibilities.

Entrepreneurial freedom, increased under previous Conservative governments, limits interference with private businesses, and thus indirectly contributes to the extension of Britain's shadow economy.

Particular emphasis needs to be placed on the Race Relations Act 1976, the enforcement of which is monitored by the Commission for Racial Equality (CRE), set up by Parliament with a number of statutory powers. Its duties are to work towards the elimination of racial discrimination, to promote equal opportunities and good race relations, and to monitor the way the Act is working. The Act covers discrimination on grounds of a person's colour, race, nationality, citizenship, and ethnic or national origin.

In the interests of race relations and public order, any enforcement action needs to be seen in the light of its potential to risk the alienation of communities or even public unrest. This is a particularly relevant consideration to be taken into account by the police and the immigration enforcement agencies. In-country immigration checks are widely seen as discriminating against the UK's usually perfectly law-abiding ethnic minorities, who would tend to be targeted.

With regard to immigration, the actual practice and enforcement is very much influenced, regulated and determined by court rulings and decisions on appeals, by interventions of Members of Parliament in individual cases, and by campaigning and lobbying groups. Or put differently, enforcement agencies are very much aware of the public response and are used to taking protests and campaigns into account.

## **7. Research overview**

### **7.1 Research into immigration and immigration control implementation**

Research and publication themes have changed over the decades, covering most issues one can think of. Dating back to the era of black struggles in the 1960s, 1970s and 1980s, ethnic minority issues have been highly politicised; from the mid 1980s on any research has been inspired by and obliged to take cognisance of anti-racist legislation and politics.

The main areas of research are:

- Immigration, immigration policy and legislation
  - Immigration, immigrants and the labour market

- Immigrant youth
- Refugee studies, refugee settlement
- Cultural and linguistic studies
- Community studies, social geography of settlement (distribution, settlement patterns)
- Race relations, disadvantages, racism, racial violence and equal opportunity policies
  - policing of black people
- Black history, politics, philosophy
  - Self-organisation, self-help, black struggles
- Immigrant and refugee integration
  - ethnic business

Studies into the most recent features of immigration usually fall into the category of ‘refugee studies’ (forced migration and refugee settlement), which also tend to be written from an advocacy point of view.

## **7.2 Research into immigration control implementation and undocumented immigrants**

Research into or publications on immigration control or implementation is only available from the immigrants’ standpoint and their support agencies. It often tends to be in non-academic, politically engaged publications. There is virtually no academic research on the immigration authorities or immigration enforcement and implementation matters. The reason is that a high level of secrecy surrounds immigration authorities and their rules, both are classified and not yet fully accessible to outsiders, including academic researchers. Only some side issues are studied such as the effects of the Carriers’ Liability Act (Nicholson, 1997). But there are some studies on internal immigration control by public services like the National Health Service or welfare agencies (Hayes, 1997; Cohen, 1996). Such studies tend to critically scrutinise efforts to extend immigration checks by public services other than immigration agencies, by linking eligibility for services with immigration status.

There is also not much research into undocumented immigration except the authors’ own recent research projects. ‘The fact is that almost nothing is known about unauthorised workers in the UK nor the impact, which they have. No research has been commissioned to establish who these people are, what kind of jobs they are doing, how long they stay, whether they have National Insurance Numbers, or indeed whether or not they are paying taxes. Nor has any assessment been made of their effect on the labour market, on unemployment or public expenditure’ (Institute for Public Policy Research, 1996: 2).

Despite such pessimistic evaluations, some publications do exist. The first relevant discussion of such issues seems to have been undertaken by Aurora in 1967, describing in detail illegal practises of migration from India and Pakistan into the UK. Dahya followed, documenting further practices of Pakistani immigrants, who were outsmarting immigration controls (Dahya, 1973). There have only been two publications explicitly on the issue of illegal immigrants, in respect of undocumented workers. The first, was a paper published in *Race Today* in 1978, presenting one case study on illegal immigration as well as an interview with an immigration officer (*Race Today*, 5, 6, 1973: 171-82). In 1982 and 1983 Maldonado published a series of articles focussing on Moroccans, Filipinos and South Americans, and stated that ‘the illegal status of these workers is created by the state’

(Maldonado 1982, *Morning Star*, 18.10.82; Maldonado and Esward, in *Race Today*, 15, 1, 1983: 8-9).

Esward and Duzgun did some work on Turks in North-east London, which also took illegal workers into account (Esward and Duzgun, 1983). The latest piece of research in this area was a descriptive work published in 1987 (Ardill and Cross, 1987) based on 25 interviews with migrant workers in London, with a strong focus on Filipinos, Colombians, Turks and Kurds. It was sponsored by the trade unions TGWU, NUPE and GMB. Its approach saw migrants as workers only, as 'one of the most vulnerable section of workers in Britain' (p. 4) but bearing in mind 'the interplay between economic and political pressure to migrate' (p. 35), as well as referring to some social aspects such as access to welfare services and education. The report came to two main conclusions. First, that the 'unequal relationship with their employers', resulted in exploitation, severe limitations on workers' legal rights and down-skilling, and explaining the employment of undocumented migrants by reason of the 'structural dependence on cheap labour, ...weak trade unions allows this to happen' (p. 61) The second conclusion was that 'growing links between agencies of the welfare state and the Home Office' were leading to the 'exclusion [of immigrants] from claiming all benefits' (p. 75). Two years later the organisation, Labour Research, took this issue up by referring these results, citing the General Secretary of the Transport and General Workers Union (TGWU), Ron Todd, who argued that: 'the union movement existed to help unauthorised workers and protect them from the exploitation to which their unauthorised status exposed them' (Labour Research 1989) although this cannot be verified by recent observation.

A feminist publication has argued that there is a tacitly 'accepted pool of workers from abroad, technically working without permission, but essential for the function of restaurants, hotels and smaller factories' (Bhaba and Shutter, 1994: 164). It emphasises women's role by showing how 'there is another group of women who still come to Britain as servants, unofficially, but who are in much more vulnerable position than au-pairs. They are domestic servants in rich households. The immigration rules do not provide for servants (except those for diplomats) who do enter the UK. Nevertheless immigration officers often turn a blind eye and allow them to come in, either as part of the household of the employer or as visitors'. The Home Office's position in relation to this practice is at odds with its usual strict adherence to the Immigration rules. '...If they enter Britain as visitors, they are immediately placed in a position of illegality. ...If they make a complaint, they will lose their job; if they will lose their jobs they also lose their claim to remain and therefore can only survive by working illegally' (p. 181).

The only official publication more or less on illegal immigration is a report on 'Entry into the United Kingdom' by the National Audit Office published in 1995, and mainly concerning the efficiency of immigration control and detection of illegal immigrants by the Immigration Service. In 1995, Udayan Prosad's film 'Brothers in Trouble' covered the experiences of 18 illegal Pakistani migrants, followed by an article in 1996 on 'Asian reality: a journey through the subworld of illegal immigrants' (*India Today*, 30.6.96). With few exceptions the majority of publications are focussed on Asian illegal migration, whether from the Indian subcontinent or the Philippines. Only in 1989, after three raids targeting Turks and Poles, did the Runnymede Trust pay some attention on these groups (Race and Immigration, 1989: 224). The very recent publications on illegal immigration and undocumented migrant workers are published on the issue of contemporary slavery, trafficking in human beings and the trade with false documents. Fekete and Webber give a



good overview of the practices and policy, Ruggiero bases his study on examples of East European undocumented migrant workers (Fekete and Webber, 1997; Ruggiero, 1997).

Further literature falls into the category of campaigning publications, usually taking a stand against immigration controls (see Greater Manchester Immigration Aid Unit's Bulletin 'No one is illegal'), criticising immigration checks and raids (CARF, 1989; 1995), which was distributed in defence of workers' rights or in support of strike actions by immigrants (see Migrant Support Unit, 1994) or defending welfare rights. In recent times strikes of Turkish and Kurdish workers in the fast food and the textile industries of East London have achieved some publicity, notably at JJ Fast Food in 1995 and at Euroscene in 1996. However, it is generally the case that one group of publications usually does not take into consideration the situation of (illegal) immigrants as (undocumented) workers, and the other group does not take into account the situation of striking workers as immigrants and/or undocumented migrants.

## **8. The context of immigration and nationality**

It must be outlined that there are reasons to reject the pull –and push factor model, which could be seen as far too crude and mechanistic to provide an appropriate theory for immigration studies. In the past, this model used to effectively hide the migrants' subjectivity, their aspirations, expectations, motives; in short the individual and autonomous elements that influence immigration decisions (for a comprehensive discussion see Düvell, 1996). However, pull factors as identified for immigration to the UK are the country's political safety and human rights record; women's rights; individual and economical liberties; living standards; the possibility of a safe and better future for the children; language knowledge prior to immigration; educational opportunities, mainly English courses; adventure and travel experience; family links; cultural links; employment opportunities; need for remittance or quick savings; welfare benefits.

Push factors are defined through their relation with the emigrant's country conditions and his or her position within the social, cultural, political and economical context. Such push factors are different for each immigrant group and indeed for each individual, depending on region, social class, and gender. Pull factors such as the attraction of the British welfare state may be applied in an often unfounded, stereotyped and politicised manner. Push factors have changed over the past few decades: dissatisfaction with independence; post-colonial wars; early ethnic cleansing; political persecution; social, educational and economical disadvantages; women's oppression; war and civil war.

## **9. Brief summary of British particularities and characteristics**

Immigration in the UK took place initially in two periods: between 1948 and 1968 and then between 1968 and 1978. Inflows have been decreasing from 1978 onwards, while asylum applications have increased since 1988. It is worth noting that early immigrants have been defined as forming an ethnic minority population and enjoy full citizenship rights. Ethnic minorities and recent immigrants and refugees tend to concentrate in major urban centres in which welfare services provide support and shelter to newcomers. Anti-

discrimination legislation and the overall and anti-discrimination culture are strong and arguably deeply rooted in society. Indeed, after decades of racial tension and clashes, the UK has adopted a multi-cultural, multi-ethnic national identity. This identity is however contested by some social and political groups (cf. the recent controversy on the report on the Future of a Multi-ethnic Britain, 2000) and has been considered to be 'under threat' by the so-called asylum 'crisis'. Despite the crisis discourse developed by the media concerning the rise of asylum seekers in recent years, the overall number of undocumented migrants is estimated to be considerably smaller than in some continental European countries. These are the main factors that determine the contours of immigration policy in this country.

As regards the policy itself, there have been considerable changes in asylum and immigration provisions since the mid-1990s, with an important rise in enforcement actions since 1996. Recently, a major reform of immigration legislation and a re-organisation of immigration authorities was begun (1999-2000), which makes this study particularly topical and necessary. In fact, we shall be looking not only at the organisational culture and structure of the agencies in charge of immigrant labour market control but also at the effect of recent changes on these.

As regards policy decisions and implementation, it is worth noting that lobbying and campaigning forces have considerable influence over immigration enforcement matters. Furthermore, border controls appear easier to enforce in the UK than in continental Europe because of its insular geography and the fact that it has only other EU countries as neighbours. Ports and airports are the main, and indeed only, points of entry to the country and since the UK has not agreed to the Schengen Treaty, controls take place at all of them for all passengers. Overall, in-country controls have traditionally been given low priority, but more recently they have been strengthened. These features are worth studying from a comparative perspective, in relation to other European countries, so as to assess their importance and role in the design of EU-wide immigration policies.

## **Chapter 6: Concluding Remarks for a Comparative Framework**

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### **1. The comparative framework**

The four countries selected for this project share a number of features that make them particularly interesting for comparison at the European level. The comparative analysis will in fact take into account the following three dimensions of similarity/difference between the countries studied:

- (a) ‘old’ (Germany and the UK) and ‘new’ (Greece and Italy) immigration countries;
- (b) rational, efficient (Germany and the UK) and clientelistic, inefficient (Greece and Italy) administration systems;
- (c) ethnic (Germany and Greece) and civic (Italy and the UK) nation-states.

Thus, we shall test whether the division between industrialised North (Germany, UK) and less-favoured South (Greece and Italy) is still valid in terms of policy-making within the EU or whether the distinction between ethnic vs. civic nationalism is more important for immigration policy implementation. In reality, the reports presented in this volume show that differences are much subtler than our three-dimension scheme for comparison shows. Moreover, the situation is dynamic and constantly in evolution not least because of the deepening and widening of European integration, which greatly influences immigration matters. As pointed out in the country studies presented here, pressures and efforts for policy co-ordination and co-operation among EU member states are high. At the same time a number of identity issues are raised including changes in the classification between the country nationals, EU citizens and aliens.

The aim of this report as well as the overall project is not simply to compare between member states but also to identify significant dimensions of comparison that may be valid across the EU, and to assess the importance of different factors that influence immigration policy in various countries. The results of the research may thus provide guidelines for policy design throughout the European Union.

### **2. Old and new immigration destinations**

Most scholars working in the field of migration in Europe point to the distinction between ‘traditional’ immigrant destinations, namely countries of northwestern and central Europe, such as Germany, the UK, the Netherlands, Belgium or Sweden and ‘new’ host countries, namely their southern European counterparts: Greece, Italy and Spain.

Indeed, Greece and Italy represent the farthest southern and southeastern borders of the EU, acquiring thus particular significance for its immigration policy as fears are expressed that these two countries provide easy points of entry for illegal immigrants who may then

continue their journey towards other member states. Moreover, Greece and Italy have recently been transformed from emigration to immigration poles. As a matter of fact, since the late 1980s, these two Mediterranean countries have become hosts for large numbers of immigrants from Central and Eastern Europe and also from African and Asian countries.

In the Mediterranean, and in particular in Greece, the presence of immigrant workers existed initially as part of the village system. Within the latter, immigrants were integrated into the ritual process of identity-exchange formation. However, the progress of industrialisation and the establishment of nationalism and a cultural division of labour have created the first processes of marginalisation of immigrant workers. During 1970-1974, Greece developed its first guest-worker policies with the intention of establishing an austere labour policy (for Greek workers) and a reserve army of cheap labourers. Since the end of the military dictatorship, and the late 1980s in particular, Greece, like Italy, has faced a new set of population flows both from neighbouring countries and from distant ones. This recent immigration must be seen in relation to the globalisation of society and economy and the development of global migration networks. Indeed, especially in the case of Italy, immigrants come not only from a wide variety of countries but often from very distant ones, with no previous cultural or economic relationships with the host society.

However, the situation in Italy differs from that of Greece because immigrants concentrate not only in urban centres (e.g. Rome and Milan) but also in the northern and northeastern industrialised regions finding employment in small- and medium-sized firms. Furthermore, as a result of a policy (or rather non-policy) of repeated regularisation programmes, Italy has managed to regulate immigrant stay and work to a much greater extent than Greece, which is still in the process of doing so. The first regularisation programme in Greece was introduced in 1998<sup>53</sup> but has been in progress until now (2001), largely because of bureaucratic inefficiency and lack of co-ordination between the various services involved.

Germany and the UK, on the other hand, are two 'traditional' immigration countries having experienced large waves of immigrants throughout the post-war period. Moreover, they continue to attract large numbers of short- (temporary or seasonal) and long-term, regular or undocumented migrants in search of better employment opportunities and living conditions.

The UK faced a first wave of immigration from New Commonwealth countries in the period between 1948 and 1968. Secondary immigration continued until 1978 but has been decreasing since then, while the immigration and citizenship policy framework has been changed so as to reduce significantly the possibility of entry. The UK has also been characterised by a relatively large wave of asylum seekers from 1988 onwards, which has led to occasional 'risk' discourse campaigns by the media and some political forces in the country. It is worth noting that the vast majority of ethnic minorities present in the UK enjoy full citizenship rights. Furthermore, ethnic minority, immigrant and refugee communities are concentrated in major cities where they provide support and shelter to newcomers. Anti-discrimination legislation and culture is strong and now deeply rooted in society. As a matter of fact, many of the above-mentioned aspects of immigration/asylum

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<sup>53</sup> A new immigration law including a second, more comprehensive regularisation programme was voted in the Greek parliament on April 4, 2001. The new regularisation programme started on June 6, 2001 and within the first two weeks of its enactment, 28,000 applications had been submitted while over 200,000 had asked for information regarding the programme.

control, ethnic minority integration and anti-discriminatory policies are closely related to the conception of the British identity.

As regards control of irregular immigration, it is worth noting that the number of undocumented migrants appears to be considerably smaller than in some continental countries. Border controls seem easier to enforce than in continental countries, due to Britain's insularity, surrounded by EU states only, with ports and airports as its main or only points of entry. In fact, priority is given to border control – it is worth noting that the UK has not agreed to the Schengen Treaty – but in-country control, which traditionally was given low priority, has been strengthened recently. Moreover since 1996, there has been a considerable rise in enforcement actions (deportations and removals) and asylum law has become more restrictive.

Similarly to the UK, Germany has experienced large migration inflows since World War II. Contrary to the UK, however, a large part of this immigration was German or of German ethnic origin and thus was not framed in terms of actual 'immigration'. As regards foreign nationals, large inflows have generally been framed as a reaction to exceptional labour market or political needs, and policies have been directed at keeping the temporary nature of labour and refugee flows. Although Germany is indeed characterised by substantive inflows *and* outflows, these policies have not been successful in preventing, as originally planned, the long-term residence of populations of non-German origin. With its priority on return encouragement and even enforcement, integration efforts started late in the individual migration history, when individual immigrants and their children born in Germany had already formed experiences of not-belonging, deterrence and exclusion for many years. At the same time, expectations concerning the degree of assimilation to some sort of German standards are high. There is also political consensus that successful integration policies for long-term residents depend on enforcement efforts against unintended prolongation of stay and illegal residence.

Clearly, there is a commonality of immigration experience between the UK and Germany, on the one hand, and Italy and Greece, on the other hand. Moreover, in the first set of countries, there already exists a set of policies dealing with both immigration control and integration while in Italy and Greece, such a framework has only recently been developed and has, especially in Greece, important gaps at the level of integration provisions. Indeed, neither the Greek nor the Italian administration was ready to deal with the sudden influx of foreign workers. In both countries, the issue was initially dealt with as an emergency, which would soon be over. Thus, emphasis was put on stricter border control. Gradually, however, regularisation programmes and a policy framework were created. Nonetheless, only very recently (August 1998, put into effect in February 1999) did Italy create a unitary corpus of norms which regulates the rights and obligations of foreigners, while in Greece such a comprehensive law on immigration is still in preparation.

The different size and nature of immigration flows in the 'old' and 'new' hosts has not however prevented policy convergence at the European level. Recognising the need for inter-governmental co-operation (Schengen Treaty and Dublin Convention) and under pressure from the European integration process, member states have sought to co-ordinate their immigration policies and, more recently (the Maastricht and Amsterdam Treaties), have partly delegated immigration matters to European institutions, recognising the transnational nature of the phenomenon (Stetter, 2000). Thus, although differences between the industrialised north and less-favoured south still persist and are reflected also

in the relationship between irregular immigration and the labour market, policy measures have common aims. Nonetheless, up to now the outcomes have largely been divergent. Two factors appear to play a role in distorting policy implementation and hence outcomes among different countries: first, the administrative structure and organisational culture prevailing in each country and, second, the predominantly civic or ethnic character of national identity.

### 3. Bureaucracy and administrative structure

Greece and Italy do not only share similar experiences as regards immigration flows but also common features of their public sectors and administration systems. Indeed, they are both characterised by an oversized state apparatus governed by clientelistic types of relations – that also prevail within their political systems – and, overall, inefficient bureaucracies.

A number of observations made in the Italian report, seem to be true for Greece too. More particularly,

- 1 *The lack of continuity in the actual policy provisions.* Legal provisions need to be periodically attuned to changes in policy and society. Furthermore in the immigration sphere there is often a need for speedy political reactions to extraordinary events. These imbalances contrast with the capacity to deal with immigration in a cohesive long-term perspective;
- 2 *The crucial role played by civil servants appointed to specific posts as experts.* Their high decision-making position ‘allows’ them to put into practice, to a certain extent, their political proposals;
- 3 *The importance of local, often contra legem, practices* motivated by a number of possible causes, such as exclusive regional competence, discretion or specific organisational culture;
- 4 *The structural ambiguity in decisions and competencies between authorities.* Inconsistency in actual implementation flourishes, particularly when personal or political considerations also play a role.
- 5 In practice, a large proportion of *immigrants are subjected to cases of self-contradictory and ambiguous pieces of legislation and thus to authority discretion.* The difficulties immigrants encounter are dealt with by *ad hoc* measures and there is much conflict between the ways in which different agencies react to the employment, education and housing demands of these groups.

Clearly, the specific legal situation of immigrants in both Italy and Greece as non-citizens and in many cases as undocumented residents, leaves them utterly vulnerable to the discretion of the authorities while, at the same time, requires that provisions are catered for also at a semi-official or informal voluntary level by social services, NGOs, local bodies and, indeed, individual employee initiatives. On the other hand, with regard to administrative practices, Italian and Greek laws are easily contravened for political (conservative or liberal), social, civil and personal reasons. The fragmented and incoherent nature of the policy framework allows, in fact, for a large degree of discretion. Moreover, the different professional and political cultures prevailing among public and private agencies leave room for the employees and other operators to manoeuvre in favour or

against specific individuals or groups. Thus, one of the side effects of this phenomenon is the enhancement of discretion and local variation in a centralised institutional framework such as that of Italy and Greece.

Nonetheless, the situation in the two countries presents important differences too. Italy now relies on a recent single text for immigration provisions (law n. 40/1998), which has marked a turning point in Italian policy, not least because it provides for a long-term comprehensive framework. However, the Italian system presents two important particularities:

- (a) The administrative system is in transition. There is a lack of structural and/or operational continuity in administration. In an effort to modernise the Italian bureaucracy and fight the inertia of old attitudes, a re-arrangement of offices, employees and competencies has recently been institutionalised;
- (b) The distinction between national and regional level in the policy-making and enforcement of immigration laws (with a large increase in the decision-making competence assigned to regional offices).

These two elements are not true for Greece which, although generally striving for modernisation, is not currently undertaking any major plan for administrative restructuring. Moreover, Greek administration (as well as politics and economy) is centralised and the distinction between national, regional and local level is much less pronounced than in the other three countries examined here.

Indeed, the distinction between different territorial levels of policy-making and implementation is a systemic feature of German and British administration too. Germany is a federal republic where a number of policy sectors are left to the competence of the individual *Laender*, while the UK is a multi-national society, with a developed decentralised administration.

However, in contrast to Italy, Germany and the UK share not only a long-standing tradition of immigration flows and policies but also developed and efficient welfare systems and public services. Being highly industrialised and geared towards market competition, their bureaucracies function in a rational manner. Nonetheless, as the country reports show, internal coherence and rationality within an agency, such as an immigration control service, does not necessarily imply rational co-ordination with other agencies. Indeed, collaboration between different immigration officers concerning stay and work issues as well as enforcement agencies, such as police, appears in many instances problematic.

It is worth noting that in the UK, as in Italy and perhaps to a lesser extent in Germany and Greece, lobby and campaigning forces – including NGOs, immigrant associations, other voluntary bodies or trade unions – have a considerable influence on implementation and enforcement. Moreover, the UK too has been going through a major reform of immigration legislation and immigration authorities since 1999-2000.

#### **4. Ethnic and civic nationalism**

An important issue that interferes with immigration policy decisions and implementation

in all four countries, and in the European Union in general, is that of national identity and the prevailing perception of a country as an immigration host. The countries studied here may be divided into two categories, without neglecting individual differences. In Italy and the UK, the conception of the nation is based mainly on civic and territorial features with a large degree of regional and national (in the case of the UK) autonomy and variation. A large proportion of the ethnic minorities and immigrants residing in the UK enjoys citizenship rights and is regularly integrated into the domestic population even though racial and ethnic discrimination is not completely eradicated. After decades of racial tension and clashes, the UK has adopted a multi-cultural, multi-ethnic national identity, which is currently put to the test by another asylum 'media panic'. In Italy too, the recent facilitation of permanent resident status and naturalisation for aliens shows a certain degree of openness to the fuller integration of immigrants and the concession of political rights to them, although media and party-political promoted panics concerning the 'invasion' of the Italian coasts and security issues, put severe limits on the making and implementation of liberal policies.<sup>54</sup>

Greece and Germany, in contrast, are characterised by a predominantly ethnic view of the nation, where citizenship is attributed according to the *jus sanguinis* principle. Thus, members of the diaspora maintain their right to citizenship even after residing abroad for a few generations and without being asked for proof of language or cultural competence. In contrast, immigrants who reside in the country and probably are fluent in the language and well acquainted with the national culture, are refused political rights because they are ethnically alien.

Greek and German nationalism have produced social systems that emphasise national identity as a framework of civil existence, which has proven to be more of a *straight-jacket* for minorities and immigrants. Moreover, since neither country recognises itself as a 'country of immigration', their policies aim at temporality, flexibility and the establishment of a legal framework that allows for the presence of a cheap labour force in the country, while integration may take place only upon assimilation of the dominant cultural framework and, in some cases, rejection of the citizenship of the immigrant's country of origin.

This issue has attracted international attention in the case of Germany due to the large percentage of the immigrant population permanently established in the country since as far back as the 1970s. The German report shows in fact that the self-perception of being a non-immigration country in spite of large immigration, and of Germanness in spite of a large foreign population, is reflected in the institutional structure, which deals with migration-related aspects and is reinforced by features of German federalism: It is decentralised, fragmented, co-operative and enforcement-minded. Besides, in contrast to Greece where national identity definition is a largely non-controversial issue, the high importance of some sort of national identity in Germany does not mean that this is a clear concept. For people in the Federal Republic, the suppression of and debate on the guilt for atrocities during the Nazi-regime was as constituent for their Germanness as their identification with the so-called economic miracle – two experiences which people in the DDR did not share in the same way as they were officially encouraged to identify with

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<sup>54</sup> This work was completed before the recent (April 2001) national election in Italy which brought in power a coalition of conservative, neoliberal and anti-immigration political forces. The new government has recently announced in the press its plans to change immigration policy restricting further entries and making stay permits fully dependent upon employment.



resistance against national socialism and experienced only moderate post-war growth in comparison to their Western neighbour. Today, issues of German identity are much more influenced by German unification than by immigration from abroad although recently efforts have been made to facilitate both formally (reduction of necessary length of stay, elimination of the cultural and linguistic competence test) and informally (toleration of dual nationality) the naturalisation process for immigrants residing in Germany.

Greece, on the other hand, has for the time being ruled out the issue of full integration of immigrants into Greek society and keeps treating the phenomenon as fundamentally temporary and at the fringes of the societal and economic system. As the media debate on recent 'national issues' – such as the Greece-FYROM controversy or the arrest of the Kurdish leader Ochalan by Turkey with the unhappy involvement of the Greek state – shows, the dominant view of the Greek nation is based on ethnic and transcendental features rather than civic or territorial elements.

Such historical legacies of nation formation and citizenship definition influence the ways in which various countries cope with challenges in the field of migration, which are common to many EU member states, and particularly, also the modes of implementation of common European policy decisions, which are due to come in the following decade. The regulation of flows and other immigration provisions reflect mostly the political will on the issue rather than the actual size or socio-economic features of the phenomenon in a specific country. Both earlier research on Germany and the UK as well as more recent research on the relationship between the informal economy and undocumented immigration in southern Europe have shown that immigration is largely subordinated to the needs of the host country, becoming functional both economically and socially. Thus, the implementation of immigration policies depends largely on national 'moods' and perceptions rather than actual social and economic conditions. It is difficult in fact to ascertain whether it is a political view that leads to an over-evaluation of the phenomenon and, hence, instigates an intensively negative public debate and restrictive measures on immigration; or whether it is the public alarm that leads to restrictive policy decisions and implementation.

## **5. Plans for the future**

Having outlined the similarities and differences between the four countries studied, taking into account their particularities and also their European relevance, our next research task will be to address the two main issues raised in this project. First, we shall examine the role of organisational culture and administrative structure in the implementation of immigration policy in each country. More specifically, we shall analyse the impact of the (de-)centralised character of the administration system; the functional differentiation between offices; the hierarchical or egalitarian; and personal or impersonal character of authority in public administration; the level and type of discretion allowed; as well as the solutions privileged by different national systems in 'difficult' cases, on the implementation of provisions on residence and work. Second, we shall concentrate on the impact of national identity, personal beliefs and professional identity on the performance of duties by immigration authorities and relate these also to the informal codes and administrative routines involved in immigration policy implementation.



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