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# **MIGRATION AND ILLEGALITY IN GERMANY**

**AKI Research Review 1**

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Translated by Susan Cox

## **Migration and Illegality in Germany: the AKI research review in brief**

### *The AKI research reviews*

The AKI Research Review on “Migration and Illegality in Germany” records and evaluates the current status of knowledge on this topic. The general aim of the AKI research reviews is to organize and evaluate the information available on a selected topic, to differentiate between adequately substantiated insights, hypotheses and controversial views, to highlight information gaps and requirements and hence provide bases for the further development of research on the topic and for political action.

### *Focus on Germany*

This report focuses on the situation with regard to illegal migration in Germany, i.e. the general conditions and the consequences of illegal migration for German society and for the migrants living in Germany without the necessary authorization or toleration. The report also includes central developments on the international research scene.

### *Policy based on uncertainty*

The phenomenon of “illegal migration” is a topic of public debate and it is often assumed that it involves serious problems that require political action. However, there is insufficient clarity with regard to the precise nature and scope of these problems and in terms of potentially successful and politically and morally acceptable intervention strategies. Policy currently operates on the basis of significant uncertainty. Neither politics nor research have hitherto made sufficient efforts to clarify important issues in this area.

### *An unsatisfactory research situation*

Very few systematic scientific studies have been carried out on illegal migration and the backgrounds and situations of illegal migrants living in the Federal Republic of Germany. In this context of an unsatisfactory general research situation, serious gaps exist specifically in the legal and political responses to illegal migration and regarding the reactions of civil society. Analyses of labour market structures (demand, segmentation etc.) are at best preliminary. A few qualitative studies provide partial information on the living situations of illegal migrants, in particular. For example, more information is available about migrant workers from Poland, in particular, than refugees and unauthorized family reunification and illegal migration from China and Africa.

It is not fundamentally impossible to carry out research on illegal migration – the report discusses possible methodological approaches and provides examples from international research, recommending that lessons be learned from such examples and from projects carried out on other topics (e.g. homelessness and prostitution).

*The scale of illegal migration is unknown*

There is no reliable information available on the absolute number of illegal migrants living in Germany. However, it is plausible to assume that the number of illegal migrants in Germany increased between 1990 and 1996. The number of people resident in Germany without legal authorization has probably not increased since then, but has stagnated or possibly even decreased. However, the possibility may not be dismissed that instead of a decline there has been a change in the form of illegal entry and more people are now using tourist visas to enter the country. For various reasons, it would be desirable that an effort be made to establish a more reliable estimation of the scale of illegal migration into Germany and the number of foreigners illegally resident there. None of the figures currently circulating for Germany and Europe have a solid basis.

*Varied migration patterns and motives*

The people who constitute the illegal migrants in Germany, their motives for migrating, the routes they took to Germany and into an illegal status vary. Employment seekers, refugees, students and au-pairs, children and older people who want to live with their families in Germany can all become illegal migrants. It is assumed that most of these enter Germany legally and, according to the available research, life as an illegal migrant is often not a permanent outcome. People shift between legal and illegal situations. There are some grounds for the assumption that most of those residing illegally in Germany only do so for a limited period. While we know that migrants without status do not constitute a homogeneous group, we have no reliable information about their precise demographic, social and ethnic characteristics.

*Specific national conditions and contexts*

While illegal migration is a problem that exists throughout the world, it is influenced in different ways by certain basic conditions that prevail in individual states. Such formative conditions include, for example, the way illegal residence is defined by the law of the country in question, the structure of the control systems and the implementation of legal norms, the welfare state, the structure and regulation of the labour market, the constitution of social networks and reactions of civil society to the illegal migrants. For example, the relatively stringent regulation of the labour market limits employment opportunities for migrants. Whether particularly strict control systems in Germany limit illegal migration effectively is disputed. A major political movement for the rights of illegal migrants has not hitherto developed in Germany, unlike, for example, in France.

*No comprehensive threat to wages and working conditions*

General assumptions regarding the threat posed to the wages and jobs of native workers by illegal migration are not justified today, and the sometimes quite dramatic threatening scenarios are unwarranted. Empirical studies – mainly carried out in the USA – have shown that illegal migration has no significant effects on wages and employment among natives. Overall, the effects of migration on the wages and working conditions of natives are clearly limited, negligible or even non-existent. However, in some sectors and for some groups of

workers, the availability of cheaper labour could actually lead to reduced employment opportunities or reductions in pay.

The effects of illegal migration should be examined individually for different economic sectors and groups of employees. Today, it is merely possible to provide information about broader trends, e.g. the construction sector and private households would appear to be the main areas in which illegal migrants are employed. Given the highly-segmented nature of the labour market, a displacement of native employees would appear to be possible in particular in the construction sector, however, liberalization and restructuring processes are decisive factors here in addition to illegal migration.

#### *Negligible impact on public budgets and social welfare resources*

Illegal migration does not currently represent a significant burden for the German welfare state and public budgets because, *inter alia*, illegal migrants make few claims for such support. Opinion is divided, however, as to whether the cost of the comprehensive control and regulation mechanisms can be viewed as costs arising from illegal migration.

#### *Heterogeneous situations*

No broad systematic empirical studies have been carried out on the situations of illegal migrants; all we have is a limited number of studies focusing on limited perspectives. Thus, we know something about the range of problems and situations that exist, but in many cases are unable to decide how common or rare such situations and problems are. Insofar as the available information can be used as a basis for general pronouncements, it would indicate that the living situations of illegal migrants in Germany differ significantly. Migrants without status are not necessarily people in need, however, an illegal existence can go hand in hand with exigency. Thus, both victims of exploitation and actors who actively avail of opportunities to improve their situations can be found among illegal migrants. What is common to both is that they do not have access to important social resources and infrastructure services. This applies not only to the educational system and social welfare, but also to other resources and services such as bank accounts, insurance policies and access to the legal system. However, the assumption that a new under class has emerged here does not appear to be valid at present.

Neither is there proof of a significant link between migration and criminality in Germany.

#### *Restrictive intervention – unclear effects*

The information available on the motives and effects of political and societal reactions to migration and illegality is also very patchy. There is no comprehensive information available on the effects of the generally restrictive intervention in Germany, i.e. the very expensive extension of border controls. International research is sceptical as to the efficacy of sanctions against employers and the control of workplaces – however this view is not supported by comprehensive empirical findings. The legalization of illegal migrants cannot reduce undesired migration in the long term. However, it would not appear unrealistic to assume that it can contribute to the reduction of social exclusion and to the integration of illegal workers into the regular labour market. Legal migration options can offer an alternative which also helps to reduce illegal migration. Political interventions also often have unintended effects which can include marginalization processes, the restriction of civil liberties and the fostering of hostility to foreigners.

*Improving the status of knowledge – evaluating policy*

Overall, this research review confirms that the status of knowledge on illegal migration in Germany is unsatisfactory and only allows preliminary conclusions. Policy in this area currently operates on the basis of significant uncertainty, thus it is imperative that we both extend our knowledge basis through well conceived research and examine the effects of political intervention more thoroughly.

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## Foreword: The intentions of the AKI Research Reviews

This study is the first in a series of research reviews published by the *Programme on Intercultural Conflicts and Societal Integration* (AKI). The reviews are designed to contribute to the development of a suitable form of research synthesis which will make it possible to summarize and evaluate complex stocks of knowledge concisely, reliably and with a view to their political relevance.<sup>1</sup> In view of the increased production and specialization of scientific knowledge, the intensification of international communication, the demand for interdisciplinary approaches and, last but not least, the complexity of many of the problems facing modern society, the availability of such syntheses is a matter of increasing importance. New instruments are required that can help us to identify the reliable substance within the almost impenetrable mass of literature and information sources now available and, based on this, to discover new starting points for further research, make scientific knowledge accessible to a wider audience and make it applicable in the context of political intervention strategies. Thus the purpose of the AKI Research Reviews is to evaluate the status of knowledge on a selected topic, distinguish adequately substantiated insights from hypotheses and controversial positions, identify gaps and desiderata, systematize scientific knowledge and, hence, provide a basis for political action. All of the AKI Research Reviews aim to bring together and present a range of perspectives from individual scientific disciplines and research fields. The principles of this approach include, moreover, the critical consideration of any possible bias so as to diminish its potential effects. The reports on the status of research on a topic explore its background and the range of the questions it raises. The approach should be transparent and comprehensible.

In taking up the topic of “Migration and Illegality”, the Programme on Intercultural Conflicts and Societal Integration is responding to public debates, the need for reliable insights that make it possible to tackle politically relevant questions, and scientific deficits. In pursuing these multiple aims, it is confronted with different demands and logics: Science is constantly confronted with “external” demands for definitive expert judgements and this can easily result in the inherently temporary nature of the state of the research in question being overlooked. As opposed to this, the argumentation adopted within the research sector is generally based on the justification of the need for further research. Thus, deficits, contradictory or unresolved findings and open questions are highlighted, and diverging patterns of interpretation openly compete. Based on an awareness of these diverse demands and expectations, the aim of the AKI is to provide scientific analyses on socially relevant issues. The proposed analyses will formulate the questions they raise and interpre-

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1 See also the similar objectives of the Campbell Collaboration, which was formally established in February 2000 and whose aim it is “to help people make well-informed decisions about the effects of interventions in the social, behavioral and educational arenas. C2’s objectives are to prepare, maintain and disseminate systematic reviews of studies of interventions. ... their overarching aim should be to gather, summarize and integrate empirical research so as to help people understand the evidence” ([www.campbellcollaboration.org](http://www.campbellcollaboration.org)). A study on the integration of refugees, which was compiled for the British Home Office, also demonstrates the common objective of developing new forms of research synthesis (Schibel et al. 2002).

tations they adopt independently and at a critical distance from the public debate and political requirements. By consciously refraining from offering ostensible certainty, we accept that this report may provide fewer supposed answers than other contributions to the debate. On the other hand, we have put particular emphasis on examining all assessments and views presented in detail, explaining the basis on which research reports and other publications reach particular judgements and identifying hypotheses as such. Overall, the AKI would like to make a contribution to the development of research, the promotion of dialogue between politicians, the general public and science and to the resolution of political and social problems.

### **Foreword to the English edition**

This text is a largely unmodified translation of the German-language version of the report which was published in December 2004. Given that not much more than a year has lapsed between the publication of the two versions, the English version only contains a few minor updates: for example, the controversies surrounding the so-called “Visa Affair”, in which the extent to which the liberal allocation of entry visas into the Federal Republic of Germany had given rise to an increase in illegal migration, illicit work and prostitution was disputed, have been taken into account in the English version.

The English version of the report also incorporates a change in the legal situation with respect to the illegal residence of non-nationals in Germany. As a result of a decision of the Federal Court of Justice of 27 April 2005, the entry into Germany and residence of non-nationals who enter the country with a tourist visa, but intend to seek gainful employment, should not be viewed as unauthorized *per se* (BGH 2005). Prior to this, the residence of these “working tourists” in Germany was regarded as illegal.

Some data have been updated.

New research findings have also been incorporated, in particular those from a project on the employment of female migrants in private households.

# 1 Introduction

Illegal migration is a topic that is currently the focus of much public debate, political attention and – gradually also in Europe – increasing scientific research. In Germany, as in other European (and many non-European) states, it is widely – and perhaps incorrectly – assumed that increasing numbers of people are crossing borders illegally and seeking work in countries that are more affluent than their own. Governments and international institutions have declared the task of bringing under control or, as far as possible, preventing illegal migration and work as a very urgent one. As opposed to this, human rights organizations, NGOs and charities draw attention to the serious social problems associated with the phenomenon that need to be dealt with as a matter of priority. Thus, there is widespread consensus with respect to the fact that German society is faced with a serious problem and that there is urgent need for action. However, insufficient clarity still exists as to both the exact nature of this problem, and the scope, appropriate means and objectives of the intervention needed to resolve it.

This report sets itself the objective of recording and evaluating the available and corroborated information on the topic of “Migration and Illegality in Germany”. It also identifies serious gaps in the available knowledge and the deficits that exist with regard to research on the topic. Two exploratory considerations provide the starting point of the report: firstly, the conceptual definition of the phenomenon of “illegal migration”; and, secondly, the identification of the views of the problem of illegal migration that feature in the current debate. The motives of this report include the aim of contributing to the debate and the resolution of current societal problems. Thus, it will start by asking what facts or situations are understood as involving the phenomenon of “illegal migration” and which aspects of the phenomenon are identified as problematic in the public debate.

► Broad consensus exists on the need for action, but a lack of clarity regarding the contours of the problem and appropriate intervention

## 1.1 Migration and illegality: the contours of a phenomenon

Illegal migration<sup>2</sup> is one aspect of the general phenomenon of migration. In terms of the driving forces of today’s migration movements and the motives of migrants there is no need to make a systematic distinction between legal and illegal migrants. This distinction only becomes relevant in particular contexts.

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2 The term “illegal migration” is used here in a general sense and refers to both the migration process itself and the illegal residence of migrants in a foreign state. As defined in a paper presented at a conference of European statisticians, at EU level: “the term ‘illegal migration’ is generally used to refer to the illegal entry and/or stay of international migrants who are citizens of third countries” (Singleton 2003: 2).

Irrespective of the legal or illegal character of migration, the recent discussion of migration theory also highlights the complex structure of the conditions giving rise to migration, the absolute scale of which is increasing rapidly throughout the world, and above all, its conditionality on the process of globalization. Thus, referring to global system theories, Massey and other authors stress “that international migration originates in the social, economic, and political transformations that accompany the penetration of capitalist markets into non-market or pre-market societies” (Massey et al. 1998: 277). In contrast to one-sided economic theories, this theory stresses cultural penetration and embeddedness; nowadays, migration is also promoted by intensified communication processes (knowledge of countries of destination, social networks) and improved transport links.

In the recent literature people are more consistently understood as being integrated into social contexts than was the case with some of the older approaches. In order to explain migration, it is important “to study the interplay of socio-economic structure, household strategies, and individual decision-making” (Massey et al. 1998: 15). Migration decisions are often collective in nature, particularly in the case of households. They do not simply target individual material benefit, but aim to find a way of overcoming more complex problems concerning markets, credit structures and risks (Massey/Durand/Malone 2002: 9-12). Furthermore, migration is not only the result of economic motives, but also range of other motives such as flight from persecution and war (see on illegal migration Black 2003: 44). Once initiated, migration movements may endure as networks become established that facilitate the migration process. Social connections become a resource, i.e. social capital, in that they facilitate access to work and assistance in the new location.

The peculiarity of illegal migration arises from the fact that all forms of international migration involve political and legal intervention. Modern nation states make both the crossing of their borders and residence within their territories by people other than their own citizens subject to authorization and permits. Illegal migration is a phenomenon that would not exist without national borders and laws that make a distinction between nationals and non-nationals and restrict the freedom of movement of non-nationals. It is the result of an imbalance between the social and political conditions of migration, a long-

► **Illegal migration is defined by state intervention in the area of freedom of movement**

term structural feature of the modern global configuration (Sciortino 2004: 23). A particular tension or, from the perspective of the states, a dilemma arises from the fact that due to various processes an increasing number of migration motives and opportunities are being generated while, at the same time, states are trying to control migration more effectively and, in some circumstances, prevent it so as to limit *inter alia* the claims made on national welfare systems (see in general Bommes 1999). This highlights the need to take sufficient account of the role of the state when reflecting on migration theory. In particular, when a restrictive migration policy is adopted, state intervention constitutes a factor that exerts a significant influence on the scope, structure and development of migration movements (Massey et al. 1998: 14; Zolberg 2000; Hollifield 2000). There has been increasing discussion in recent years as to how the motives, conditions and options for state intervention in migration and resettlement processes should be formulated theoretically. This debate has focused on actor structures and policy

determinants in nation states and their altered ability to control migration and membership as a result of the dynamics of globalization, the influence of international legal norms and the increasing rights of individuals (see, for example, Joppke 1998).

Political and legal intervention on migration movements and the differentiation between legal and illegal migration have a series of important consequences. These include the fact that the way in which illegal migrants enter into employment relationships, find living accommodation and avail of health services etc. is also structured by the fact that their efforts collide with legal requirements and this, in turn, may determine their interaction with other social actors. Illegal migration can trigger specific developments in socio-structural contexts, for example the emergence of separate labour markets or a new under class.

Hence, the central issues and areas of investigation that arise when exploring the topic “Migration and Illegality” are:

- when, how and why distinctions are made between “legal” and “illegal” migration (this includes laws, public debates, political intervention)<sup>3</sup>;
- the extent to which these distinctions structure migration movements in terms of their composition and development (for example, in that the risks involved and increasingly impeded access to the labour market could make migration appear attractive to certain groups only, the importance of “smuggling” organizations could increase and shuttle migration or long-term residence may be facilitated);
- which general regulatory conditions in a state facilitate or hinder unlawful forms of migration and residence by non-nationals and influence the living conditions of migrants (e. g. welfare state and labour market structures);
- the extent to which the living conditions of the migrant groups involved are specifically influenced by the conditions of the illegality;
- the structural consequences of illegal migration or how illegal migration is dealt with in the countries of destination (structure of the labour and housing markets, socio-structural stratification, xenophobia);
- the consequences that illegal migration has in the migrants’ countries of origin (e. g. splitting up of families, importance of money transfer);
- finally, the question should also be raised as to which general regulatory conditions in a state facilitate or hinder migration and residence practices which violate legislative provisions and influence the living conditions of the migrants in question (e. g. welfare state and labour market structures).

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3 See here the remark by Alejandro Portes: “A thorough scholarly analysis of illegal migration cannot take the popular and governmental definitions of the subject for granted, but must subject them to scrutiny as integral components of the object of study. Such scrutiny begins by the very definition of the phenomenon as a ‘problem’” (Portes 1978: 470).

This report provides an account of the available research on the topic of migration and illegality in Germany. The following three restrictions were adopted in the conception of the report:

- o Firstly, the focus is on research findings that concern the situation in Germany. While key points of view and findings from the international debate have been taken into account, a comprehensive evaluation of the international literature that would fulfil the requirements of a detailed research evaluation was beyond the scope of this report.
- o Secondly, the general implications and consequences of illegal migration for German society and the migrants themselves are central to this report; for practical work-related reasons, it was not possible to examine migration routes and motives or the situation in the migrants' countries of origin.
- o The focus is on non-nationals who live in Germany without the necessary residence permit or exceptional leave to remain, in other

► **Main focus of this research review: Germany and the unlawful residence of non-nationals**

words whose presence is illegal, and the general implications and consequences of their presence.<sup>4</sup> In terms of the definition adopted

here, whether they entered the country legally (e.g. as tourists or students) or illegally is irrelevant. As opposed to this, legally resident non-nationals who, like some Germans, occasionally engage in illicit work are not the subject of this report. Similarly excluded are non-nationals who are legally resident in Germany but contravene the regulations and stipulations of the authorities by engaging in gainful employment (e.g. refugees who are not allowed work at all or only under certain conditions). Thus, unlawful residence is always involved, but not unlawful employment on its own. In the German version of the report, we confirmed that this included those non-nationals whose residence becomes illegal because, despite supposedly being tourists etc., they engage in paid employment. However, as a result of a judgement of the Federal Court of Justice of 27 April 2005, this is no longer the case and, indeed, illustrates just how unclear and subject to change the definition of the illegal migration in Germany is.

The description of a person as an “illegal migrant” is occasionally perceived as derogatory and the use of alternative expressions such as “irregular migration”, “uncontrolled migration” and “undocumented migration” or “sans papiers” (“migrants without documents”) is sometimes proposed instead. However, terms like “uncontrolled” or “irregular” migration are not very accurate and the subject of this report is not uncontrolled migration,<sup>5</sup> but migration and residence that take place outside of the legal channels, in other words “illegal migration”. Reference to this circumstance is not intended to vilify the individuals involved, but to highlight a very important aspect of their lives, i.e. the fact of being in a state of permanent conflict with legal requirements.

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4 As Welte (2002: 54) writes, residence is illegal “if the necessary residence permit or exceptional leave to remain does not exist”. Welte makes a distinction between “unlawful” (*nicht rechtmäßig*) and “illegal” (*illegal*) residence.

5 One could argue, for example, that family reunion migration also partly evades state control.

Thus, on the one hand, the aim of this report is to establish the status of research on migration and illegality in Germany by reporting, and evaluating the information available on the topic and to identify deficits that exist in the knowledge available along with possible directions for future work in this area. At the same time, it also aims to contribute to the clarification and examination of a problem that is of significant relevance to society. Thus, the question should be asked as to which developments and phenomena are defined as problematic by different actors and the extent to which these views are justified. By outlining a few of the problem definitions that circulate in societal debates in connection with the phenomenon of “illegal migration” below, we also clarify the background and context of the debate, from which no scientific analysis can fully liberate itself, regardless how distanced and objective it tries to be.

## 1.2 Migration and illegality: problem definitions

The opinions expressed as to the main dimensions of the problem of illegality are far from unanimous. It should also be noted here that problem perceptions change and depend on the specific context. Moreover – as international and historical comparison shows – the view that unauthorized migration and the unlawful residence of non-nationals are actually problematic and a matter requiring action by the state is far from automatic. Thus, throughout the 1950s and for periods of the 1960s, the authorities in the Federal Republic of Germany largely tolerated what was described as the “third (migration) route” (*dritter Weg*),<sup>6</sup> through which non-nationals seeking employment entered the Federal Republic of Germany, found a job and then obtained work and residence permits were, in other words, legalized (Sonnenberger 2003a: 153). It was only in the course of conflicts and about various political priorities that state interest in the control of migration movements gained the upper hand.

Today, a perception of illegal migration as a problem prevails and, based on our evaluation of the literature and some primary sources,<sup>7</sup> it is possible to differentiate between five main aspects of the problem that tend to be singled out in the debate. These differ *inter alia* in that, on the one hand, they tend to highlight

“Bush wants to make illegal migrants guest workers”

*Berliner Morgenpost*, 9.01.2004

“Janosch, Alina and Karla – illegal in Berlin / Whatever happens, the child must not go hungry”  
*Stuttgarter Zeitung*, 24.12.2003

“Declaration of war on human trafficking – Fischer denounces ‘modern form of slavery’”  
*Frankfurter Rundschau*, 16.10.2001

“Our treasure Julia”  
*Die Zeit*, 15.01.2004

“Bishops do not shy away from taboo topic of illegal migration”  
*Süddeutsche Zeitung*, 15.05.2001

6 The “first” and “second” migration routes involved migration based on the recruitment of non-national workers based on the provision of recruitment treaties and the entry into the country of individual migrants already in possession of residence and work permits.

7 In addition to the literature, we also analysed the database of the German *Bundestag* (from 1998, keywords “illegal migration/migrants”) and – somewhat cursorily – publications of the European Union, German federal ministries, the *Bundesanstalt für Arbeit/Bundesagentur für Arbeit* (Federal Employment Office/Federal Agency for Employment) and newspaper reports. A systematic analysis of the public debate and the problem perceptions expressed there has not hitherto been carried out.

mainly the negative effects of illegal migration on the state and society while, on the other hand, some problem definitions focus on the situation of the individuals concerned.

- **The problem of control:** Illegal migration is often seen predominantly as a problem because its existence represents a threat to the control over access to a state's territory and, by association, the ability to limit and reduce the total volume of migration. This perspective highlights the dimension of state sovereignty and gained in significance in the course of increased efforts to control and restrict migration movements. Illegal migration demonstrated the limits of such efforts to impose strict control. This problem perception gained in influence in the 1990s when the opening of the borders between Western and Eastern Europe and the rise in the numbers of refugees and asylum seekers showed that the pressure of migration would continue or even increase.<sup>8</sup> As opposed to this, in situations in which the migration of workers is desirable, illegal migration in itself may be perceived less as a problem than the fact that it diminishes opportunities for the targeted selection of migrants.<sup>9</sup>
- **The problem of the labour market and social costs:** One of the currently most influential perspectives on the issue of illegal migration stresses the risk it poses to social standards and jobs. "Illegal non-nationals who work for rock-bottom pay are forcing national employees out of the labour market. Furthermore, the fact that social contributions are not paid for these employees also represents a risk to the social security system" (Bundesregierung 2000: 45; von Lüpke 1997: 25). It is occasionally argued in association with this view that illegal migration is a source of considerable financial burdens: "The host country suffers economic losses due to unpaid taxes and the associated distortion of competition" (Unabhängige Kommission Zuwanderung 2001: 196). It is also sometimes suggested that such financial burdens arise because the German state has ultimately had to provide for a considerable number of the illegal non-nationals.<sup>10</sup>
- **The problem of legal order and political stability:** Some observers view illegal migration as representing a potential threat to the constitutional state and stability of a country. This rather dramatic view is justified with reference to its supposed negative effects on the welfare state and general compliance with the law, and it is sometimes also argued that public opinion would not tolerate large-scale illegal migration. This view is expressed in a study commissioned under the Greek Presidency of the European Union which states that "Large-scale illegal migration challenges a society's social and economic systems of governance and undermines its legal and even constitutional order. Left unattended, illegal migration aggravates a society's centrifugal forces, fuels xenophobia, stokes popular anxiety, and often leads to extreme law-and-order responses" (Papademetriou 2003; see also von Lüpke 1997: 25).

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8 This change in the perception of migration was also documented by the OECD reports "Trends in International Migration", e.g. 1998: 13.

9 A representative of the Federal German government stated in 1970 that it is only through migration control that "it is possible to prevent the arrival of more work seekers than our labour market can absorb and to prevent people with contagious diseases or criminals from entering our country" (Dorn 1970: 1650).

10 As stated by MP Marschewski (1999: 5868): "German society is being ... damaged. It must ultimately meet the financial costs for the victims of the traffickers."

- **The problem of poverty:** Other participants in the debate mainly focus their attention on the needs and precarious social situation of the migrants themselves as victims of human trafficking, poverty and social marginalization. Thus, representatives of the churches stress the “humanitarian obligation” of the state (Sterzinsky 2001), and the German Conference of Bishops sees “the need for political action” with the predominant aim of “guaranteeing a minimum social standard” (Voß 2003). As far back as the early 1970s, illegal non-national workers were often primarily described as victims of exploitation and even as “modern slaves” (e.g. Blüm 1971).
- **The problem of human rights and rights of individual liberty:** Finally, the fight against illegal migration – and not the illegal migration itself – is occasionally identified as the real problem as it represents a threat to human rights and rights of individual liberty (see, for example, Düvell 2001).

Such problem perceptions represent both part of the phenomenon of migration and illegality and, in the context of this report, grounds for investigating the reliable information available on the scale of uncontrolled migration and its consequences for the economy, the welfare state and legal stability – in other words, on the problems, burdens and costs associated with illegal migration for both society and those directly involved. By outlining the research field, introducing the available empirical studies and discussing methodological issues, the following chapter (Chapter 2) presents the basis of the existing knowledge on migration and illegality. This is followed by a chapter on the status of the information available on the scope and structure of illegal migration (Chapter 3), and a broad account of its general structural conditions (Chapter 4). The following chapters provide more detailed reports on the conditions and consequences of illegal migration for the economy and labour market (Chapter 5) and the living conditions of migrants (Chapter 7). Finally, the main insights of the report, the continuing gaps in the knowledge available on illegal migration and their consequences are summarized in the final chapter (Chapter 8).

### ***1.3 Comments on the methodological approach used***

This report is mainly based on studies that present quantitative or qualitative empirical findings on the subject of illegal migration. Information from other publications that proved particularly insightful in terms of conceptual, theoretical and methodological issues has also been incorporated. General discussions of the problem, secondary analyses and position papers were not otherwise consulted. The aim was to avoid a preference for particular perspectives or methodological approaches. Considerable efforts were made to identify and evaluate all of the studies deemed relevant in the context of the thematic scope defined for the report. The literature search included research on databases, the evaluation of catalogues in a series of libraries<sup>11</sup> and a bibliography compiled by the Austrian Forum

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11 The databases consulted included: the SOLIS database of social science literature and IBZ bibliography of international journals in the arts and social sciences, the Gemeinsame Verbundkata-

for Migration Studies ([www.oefm.org](http://www.oefm.org)); the search was implemented with the help of internet search engines, the consultation of references in other publications and the analysis of the relevant journals. Central issues were also discussed by a group of experts at a workshop held at the WZB, from which the authors of the report gained important insights and information. The workshop participants made a valuable contribution to the development of this report.<sup>12</sup> Together with these participants, the authors would like to thank Michael Bommers, Roland Eckert, Klaus J. Bade, Hartmut Esser, Wilhelm Heitmeyer, Amélie Mummendey and Friedhelm Neidhardt for their helpful comments and suggestions.

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log (GVK) (catalogue of the German library network GVK), the *Hessische Verbundkatalog HeBIS* (catalogue of the Hessen library network); all of the above databases were consulted from 1997 using the keyword “illegal migration”. We also consulted the catalogues of the *Staatsbibliothek Berlin*, the library of the Social Science Research Center Berlin (keyword “illegal migration”), the IMIS library Osnabrück, the library of the German *Bundestag* and the bibliobivs literature database of the *Berliner Institut für Vergleichende Sozialforschung* (Berlin Institute for Comparative Social Research). Various references from the authors’ own literature collections, which have been developed over years and can no longer be listed individually, and from discussions with other scientists were also incorporated in the course of the compilation of the report.

12 The workshop programme can be found on the AKI website: [www.wz-berlin.de/zkd/aki/](http://www.wz-berlin.de/zkd/aki/)

## 2 Research on Migration and Illegality: Research Field – Methods – Empirical Studies

In order to estimate the status of the knowledge available on the topic of migration and illegality in Germany it is firstly important to clarify the perspectives, questions and method, on the basis of which the available information was obtained. This chapter starts by describing the research field, it then explains the methodological issues and problems arising in this field of research and finally presents selected international studies and the empirical studies available on the situation with regard to illegal migration in Germany.

### 2.1 Characteristics of the research field

Very few systematic scientific studies have been carried out on illegal migration and the backgrounds and living conditions of non-nationals who are unlawfully resident in Germany. Research interest in this topic in Germany has only intensified in recent years. This report refers to over 30 scientists and researchers who have published on the topic of migration and illegality over the past decade. However, only a few of them have been working on the topic for a long time and have undertaken their own research; in other words, there are very few groups of researchers working on this topic on an ongoing basis. Although informal networks exist, the workshop held in preparation for this AKI Research Review was one of the first academic conferences specifically devoted to the topic of migration and illegality to be held in Germany.<sup>13</sup> As recently as 2004, there were still only a few relevant research projects under way in Germany (however, quite a number of doctoral thesis projects), and some of the studies available at that time had been carried out by people working outside of the institutionalized research context. Hitherto, support for research in this area – in the form of the granting of funding by the main institutions that finance research in Germany – has only been provided in a few individual cases.<sup>14</sup> Thus, “schools of thought” have not yet emerged in this context. Characteristic of the situation up to now is that expert knowledge is largely concentrated among non-academic experts and that boundaries between academic and non-academic knowledge have not been drawn.

► A relatively new and underdeveloped field of research in Germany

13 See, however, Eichenhofer 1999 which is based on a series of lectures at the Institute for Migration Research and Intercultural Studies (IMIS) at the University of Osnabrück; other lecture series were organized at the Humboldt University in Berlin in 2002 and by the Forschungsstelle für interkulturelle Studien (FIST) (Research Centre for Intercultural Studies) at the University of Cologne in 2003. In June 2001, the Rat für Migration (Council for Migration) staged a workshop on the topic of “Integration and Illegality”, see Bade 2001a. The Center of Social Policy Research of the University of Bremen staged a workshop entitled “Migranten an der Schwelle zwischen Legalität und Illegalität” (“Migrants on the Threshold between Legality and Illegality”) as far back as 1995, see Böker/Vos 1996; Jordan/Estrella/Vogel 1997.

14 See references in the Annex.

It is possible to observe specific national features in the disciplinary structure of the research concerning the subject area of migration and illegality. If de Genova (2002: 421), an anthropologist, is to be believed, in the USA the field is dominated by demography, policy studies and criminology while ethnological research remains largely underrepresented. Economic studies are also well represented in the generally broad disciplinary spectrum found in this area in the USA (see for overview Espenshade 1995). In Europe, where research on this topic is for the most part more recent and generally less well developed than in the USA, sociology is better represented than political science and demography.<sup>15</sup> The academic publications on the topic in the Federal Republic of Germany can largely be classified as sociological studies, although the literature also includes academic-political commentaries. Individual publications by jurists, economists and anthropologists can also be found while political scientists, geographers and demographers tend to be less common as authors. Also typical of the available studies is their low level of integration into the disciplinary mainstream while the adoption of a theory-led approach tends to be atypical. Furthermore, it is characteristic of the research situation with regard to migration and illegality in Germany that the topic has not yet been adopted in the context of the general research on social structure and poverty and that it is left to the specialists for the most part. Existing studies tend to be partly based on expert knowledge which is available within the structures that provide support to migrants (e.g. charitable organizations, refugee organizations) and the migration control authorities and other state bodies. Very few studies have been carried out up to now, for which specific empirical data has been collected through interviews with migrants without legal status and experts.

The following table provides an overview of the studies currently available which present the results of empirical studies on the circumstances, migration patterns and motives of illegal migrants in Germany. In addition to the findings of these studies, insights from other studies, for example, dealing with economic issues or migration policy, have been incorporated into this research review.

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15 This assessment is not, however, based on a systematic analysis. The demographers who work on this topic include Tapinos, Blangiardo and Arango. See also Sciortino 2004; Samers (2003: 556) on the dominance of sociology; Engbersen stated a few years ago: "The number of studies on the life world of illegal migrants is very limited, especially in Europe." (1999: 215). To our knowledge, more comprehensive and systematic reflections on this research field in Europe do not exist.

Table 1: Empirical Studies on Migration and Illegality in Germany

Authors/ Main Publications	Subject of the Research	Year of Survey/ Field-Work Phase	Location/ Region of Illegal Residence or Survey	Country of Origin of Illegal Migrants	Empirical Methods	Number of Persons Surveyed (of which women)/of Interviews (informants were sometimes interviewed several times)
Alt 1999	Illegality in general: comprehensive description of the circumstances of illegal migrants, examination of theories on aid and control policies	1996/97	Leipzig	Global, mainly Eastern and Southern Europe	<ul style="list-style-type: none"> <li>• Interviews with illegal migrants (4 transcribed, 31 notes taken)</li> <li>• Interviews with experts on the “illegal scene”</li> <li>• Analysis of randomly selected official files on illegal migration</li> <li>• Expert interviews</li> </ul>	<ul style="list-style-type: none"> <li>• 35 persons (2 women) /77 I. 60 additional cases reported from second-hand accounts</li> <li>• 60 interviews (= persons?)</li> <li>• 87 files</li> <li>• 39 interviews</li> </ul>
Alt 2003	Illegality in general: Further (following on from the Leipzig study) description of circumstances and policy analysis, migration motives	2001/02	Mainly Munich (+Leipzig, Berlin)	Global	<ul style="list-style-type: none"> <li>• Interviews with illegal migrants (48 notes taken, 27 ethnographic)</li> <li>• Interviews with contacts, including experts on the “illegal scene”</li> <li>• Expert interviews (some interview guidelines reproduced)</li> </ul>	<ul style="list-style-type: none"> <li>• 44 persons (33 women?) /75 interviews (in part formerly illegal migrants)</li> <li>• 53 persons/67 interviews</li> <li>• 13 formal interviews, 19 informal conversations</li> </ul>
P. Anderson 2003	Illegality in Munich: social situation and problems, options for action in the municipal context	2001/02	Munich	Global, Africa, Europe, mainly Latin America	<ul style="list-style-type: none"> <li>• Interviews with illegal migrants, notes taken in most cases</li> <li>• Expert interviews (anonymous)</li> </ul>	<ul style="list-style-type: none"> <li>• 27 persons (13 women)/22 interviews + 2 group discussions with 5-6 persons</li> <li>• 39 interviews + 21 background and telephone conversations/no. of persons?</li> </ul>
Butscher 1996	Informal survival economy: food traders, jewellery traders, car windscreen cleaners, only in part migrants without legal status	1994/95	Berlin	Global	<ul style="list-style-type: none"> <li>• Interviews (tape recordings, notes taken or recorded from memory)</li> <li>• Survey using standardized questionnaire (questionnaire reproduced in the publication)</li> </ul>	<ul style="list-style-type: none"> <li>• 19 persons (? women)</li> <li>• 62 persons</li> </ul> <p>In both cases, the residence status of the informants remains unclear.</p>
Heine- Wiedenmann et al. 1992	Trafficking in women, prostitution tourism, marriage trade, (activities against) human trafficking Illegality just one aspect	1989-90	German cities	only illegal migrants: Philippines (8), Africa (1), South America (1)	<ul style="list-style-type: none"> <li>• Conversations with non-nationals, unclear whether recorded or not, contact with illegal migrants through the SOLWODI advisory service</li> <li>• Expert interviews</li> </ul>	<ul style="list-style-type: none"> <li>• 34 persons, of which 10 illegal migrants (all women)</li> <li>• 162 interviews (with usually 2 persons each)</li> </ul>

IAPASIS 2003 Cyrus/Vogel 2002b	Migration control practices and strategies of migrants, migration motives, identities	1997-2001	Berlin	Poland	<ul style="list-style-type: none"> <li>• Problem-centred narrative interviews with Polish migrant workers, transcribed</li> <li>• Interviews with employees from a Berlin employment office and participant observation</li> </ul>	<ul style="list-style-type: none"> <li>• 16 persons (7 women)/ 14 interviews</li> </ul>
Irek 1998	Backgrounds and motives of Polish cleaners, networks and working conditions	1987-94	Berlin, Poland, on the train between Berlin and Warsaw	Poland	<ul style="list-style-type: none"> <li>• Ethnographic study with informal conversations and group discussions</li> <li>• Several detailed conversations</li> <li>• Participant observation</li> </ul>	<ul style="list-style-type: none"> <li>• 1300 persons in total</li> <li>• 127 persons (all women)</li> </ul>
Jordan/Vogel 1997; Jordan/Vogel /Estrella 1997; Vogel 1996	Illegal migrant workers in London and Berlin Identification and explanation of differences between Germany and the UK, connection with the social security system in Germany	1995/96	Berlin	Brazil	<ul style="list-style-type: none"> <li>• Interviews, transcribed</li> </ul>	<ul style="list-style-type: none"> <li>• 15 persons (7 women)</li> </ul>
Kienast/ Marburger 1994	Migration motives, living and working conditions of Polish migrant workers in the new Federal German Länder, i.e. states	1993	Berlin, Brandenburg, in part Saxony	Poland	<ul style="list-style-type: none"> <li>• Interviews, notes taken</li> <li>• Discussions with experts</li> </ul>	<ul style="list-style-type: none"> <li>• 24 interviews/24 persons (? women) Proportion of migrants without legal status unclear</li> </ul>
Lutz 2005; Lutz/ Schwalgin 2004	living and working conditions of domestic workers, relations with their employers	2002-04	Münster, Berlin, Hamburg	eastern Europe and Latin America	<ul style="list-style-type: none"> <li>• Narrative interviews with migrants and employers, usually tape recorded</li> <li>• Conversations with representatives of self-organizations and spokespeople</li> </ul>	<ul style="list-style-type: none"> <li>• 73 interviews with ? persons (migrants and employers) The female migrants had overwhelmingly experienced periods of illegal residence</li> </ul>
Morokvasic 1994	Shuttle migration between Poland and Germany, migrant traders (“Polish Markets”) and migrant workers	1990-92	Germany, Poland	Poland	<ul style="list-style-type: none"> <li>• Semi-standardized interviews (in shuttle buses and at border crossings, proportion of traders and workers not demonstrated)</li> <li>• In-depth interviews The author refrains from indicating the illegal or legal residence status of the informants as she considers such distinctions as fluid and classification as misleading.</li> </ul>	<ul style="list-style-type: none"> <li>• 288 persons (approx. 1/3 women)</li> <li>• 21 I.</li> </ul>

Niesner et al. 1997	Trafficking in women Organization of trafficking, living conditions, political intervention	1989-93	Stuttgart area, partly in Bonn, Frankfurt, Hamburg	Philippines, Thailand, Latin America	<ul style="list-style-type: none"> <li>• Semi-standardized interviews in the informants' native language, transcribed, contact originating from clients of the FIZ advisory service Stuttgart</li> <li>• Informal conversations</li> </ul>	<ul style="list-style-type: none"> <li>• 60 persons (all women), 5 persons without residence permits, all Filipinas</li> <li>• 20 persons "without legal residence"</li> </ul>
Sextro 2003; Sextro et al. 2002	Illegal migrants as clients of church advisory services	2001-02	Rhineland, Westphalia	Global	<ul style="list-style-type: none"> <li>• Written survey of advisory services, based on standardized questionnaire</li> <li>• In-depth interviews with advisory services, notes taken</li> </ul>	<ul style="list-style-type: none"> <li>• 96 advisory services in North-Rhine Westphalia responded, 51 report of contact with a total of 862 illegal migrants</li> <li>• 8 interviews</li> </ul>
Shinozaki 2003	Gender relations, transnational parenthood, Filipino domestic workers	2001-03	Frankfurt ?	Philippines	<ul style="list-style-type: none"> <li>• Biographical interviews, transcribed</li> <li>• Majority of informants are individuals without valid documents.</li> <li>• Ethnographic participant observation</li> </ul>	<ul style="list-style-type: none"> <li>• 10 persons (7 women)</li> </ul>
Stobbe 2005	Consequences of internal control practice on living conditions	1999-2001	Germany	Global	<ul style="list-style-type: none"> <li>• Semi-structured interviews in migrants' language, recorded or notes taken, transcribed, contact usually originating from counselling services</li> <li>• Expert interviews</li> </ul>	<ul style="list-style-type: none"> <li>• 20 persons (10 women), all at least 6 months without legal residence status</li> </ul>

*In some studies, informants were interviewed several times. Thus, where possible, both the number of interviews and number of informants are specified.*

*Recording of interviews, transcribed: the interviews were recorded on tape and transcribed verbatim; notes taken: it was not possible to tape record the interviews; notes were taken from memory. Not all studies provided detailed information as to how contact was established with the informants and on what basis they were selected. In some cases, this was due to the guaranteeing of the anonymity of those contacted.*

The table includes studies which are based on several interviews and use them not only for the purpose of illustration. A number of other studies exist that describe individual cases, record individual interviews and summarize conversations in a predominantly journalistic style:

A report by Alscher, Münz and Özcan (2001) on the situation in Berlin is based *inter alia* on discussions with five Berlin experts and on four interviews with five illegal residents who had lived in Berlin for a period without a residence permit; the recordings of the interviews are documented in the publication.

A publication of the Archbishop's Ordinariate Berlin (Erzbischöfliches Ordinariat Berlin 1999) contains journalistic reports based on interviews carried out in 1999 with nine illegal migrants and interviews with experts and former illegal migrants documented in the publication.

A study carried out in 1998 for the International Organization for Migration (IOM) (Okólski 2000) used, *inter alia*, in-depth interviews with 72 illegal migrants arrested in Poland, of whom around 30 per cent expressed the intention to go to Germany.

Schäfter and Schultz (1999) discuss the situation of south American women employed in private households on the basis of a few interviews. However, the residence status of the women is not clearly specified.

A group of students in Ukraine surveyed 14 Ukrainians on their experiences as illegal workers in Germany. An employer in Germany and some experts were also surveyed. The report was published with the support of the Robert Bosch Foundation and the Heinrich Böll Foundation (Lucht 2002).

Field research on the circumstances of Vietnamese migrants was carried out under the supervision of Felicitas Hillmann as part of a student project at the Institute for Geography, Free University Berlin (Hillmann 2005).

In 1998 and 1999 Czarina Wilpert carried out the German part of a European project. The subject of the research was informal labour markets. The research findings have not been published in full.

In general, the possible political implications of research and the researchers' own political convictions play an important role in the selection of research topics. Thus, some academics and researchers would like to avoid contributing to the adoption of a restrictive policy on migration through their research and facilitating the pursuit of migrants without legal status. For this reason, they avoid the examination of certain facts in some contexts (migration paths, strategies for the avoidance of discovery) or do not publish the information they obtain in full. As opposed to this, other studies exist that identify with the state's interest in controlling and restricting illegal migration. This proximity to official policy – which may vary in its intensity – is not exclusive to Germany. For example, like Alejandro Portes back in 1978, de Genova criticizes US research's excessive fixation on political relevance which involves preconceptions as a result of which “research is effectively formulated and conducted from the standpoint of the state, with all of its ideological conceits more or less conspicuously smuggled in tow” (2002: 421; see also Black 2003). In general therefore, it is desirable that political perspectives that can influence the selection of research issues and may also influence evaluations be clearly indicated, and that their consequences be reflected in the work.

The situation of migrants is common thematic focus in the research relating to Germany and the questions that are asked and evaluations made are frequently and very openly influenced by a certain empathy with the migrants. Gender perspectives also are clearly represented – mostly in connection with the topics of human trafficking and domestic labour. As will be demonstrated in greater detail later in this report, in the context of a generally dissatisfactory research situation, there are clear gaps regarding the approach of law and politics to the problem of illegal migration. Public opinion and the media are virtually unexplored. As a result, these extremely important dimensions of the issue are not examined in detail here as the purpose of this report is to present a review of the existing research. Detailed analyses of labour market structures (demand, segmentation etc.) are also lacking. The situation in Berlin and some other cities has been subject to more extensive examination than that in smaller cities, towns and rural areas. Gaps also exist in the knowledge relating to the regions of origin and nationalities of migrants, for example little is known about illegal migration to Germany from China and Africa. Little is also known about refugees and unauthorized family reunion migration, whereas more information is available on migrant workers, particularly those from Poland. Overall, despite the fact that it does not represent a new phenomenon in Germany, the topic of “migration and illegality” is a relatively new research field within which, however, the rise in the number of doctoral thesis projects *inter alia* would suggest an increase in interest and innovative potential.<sup>16</sup>

► Specialist knowledge is largely held by non-academic experts – political considerations play a major role

The level of information available on some other countries is better. The USA, in particular, has a long-established research tradition in this area and an impressive number of studies are available there (see Espenshade 1995; de Genova 2002;

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16 For reflections on the analysis of a research field and innovative trends, see Güdler 1996.

Massey/Durand/Malone 2002; Mahler 1995). In the case of Italy, data has been collected and evaluated in the context of legalization campaigns. An innovative attempt was also made there to develop new strategies for sampling which would be suited to the recording of information on legal and illegal migrants. A series of empirical studies were carried out in the Netherlands, starting with the “Unknown City” project from 1993. A few important studies from these countries are presented below.

### **The Unknown City Project (The Netherlands)**

The findings of this project, which was carried out between 1993 and 1997, constitute one of the most important bases for evaluations of migration and illegality in the Netherlands. The project was triggered by a disaster when an aeroplane crashed into a block of houses shortly after take-off from Amsterdam-Schiphol in 1992. When the authorities were unable to identify many of the victims, it became evident that there were a large number of unregistered and unofficial residents in the country.

The Unknown City project collected information in four ways:

- Firstly, around 170 illegal migrants of different nationalities were surveyed in Rotterdam. Contact was established with the migrants in different ways.
- Secondly, an ethnographic study was carried out to estimate the extent to which illegal migrants are supported by ethnic communities. To this end, contact was established through interviewers of the corresponding ethnicities with 42 Turkish, 40 African and 39 Moroccan households which were then surveyed.
- Thirdly, the implementation of the restrictive policy towards illegal migrants by 40 police officers and 90 employees of authorities or semi-state institutions was examined.
- Fourthly, the files of the migration authorities, including a Rotterdam document archive on 330 arrests of illegal migrants in 1989 to 1994, were analyzed.

The project findings contain information about the socio-demographic structure of illegal migration, the extent to which illegal migrants become involved in criminal activity, on migration patterns, migrants' access to the housing and labour markets and the role of social networks.

Jack Burgers/Godfried Engbersen (Eds), *De ongekeende stad I: Illegale vreemdelingen in Rotterdam*, Amsterdam, 1999.

Godfried Engbersen, Joanne van der Leun, Richard Staring und Jude Kehla, *De ongekeende stad II: Inbedding en uitsluiting van illegale vreemdelingen*, Amsterdam, 1999.

### ***Illegale vreemdelingen in Nederland* (“Illegal Non-Nationals in the Netherlands”)**

A team from the Erasmus University Rotterdam and the Universities of Leiden and Utrecht was commissioned by the Dutch Ministry of Justice (WODC) to carry out a follow-on study to the Unknown City project under the directorship of Godfried Engbersen:

- The first objective of the project was to establish a well-founded estimate of the number of illegal migrants in the Netherlands.
- Secondly, the link between illegal migration and criminality was to be assessed.
- Thirdly, the study was to carry out a qualitative analysis of the migration and residence strategies of illegal migrants from eight selected countries of origin.

Methodologically, the study is based on an evaluation of police files on arrested illegal migrants from all over the Netherlands; over 47,000 cases were evaluated in the course of the study.

Furthermore, a qualitative study was carried out based on 156 interviews with illegal migrants from eight selected countries of origin (China, Iran, Morocco, Somalia, Sri Lanka, Turkey, the former Yugoslavia and Soviet Union).

The estimation of the number of illegal migrants is based on a complex method (capture-recapture technology and truncated Poisson regression model) which were further developed for this purpose under the management of Peter van der Heijden.

Godfried Engbersen, Richard Staring, Joanne van der Leun, Jan de Boom, Peter van der Heijden, Maarten Cruiff, *Illegale vreemdelingen in Nederland. Omvang, overkomst, verblijf en uitzetting*, Rotterdam 2002.

English publications on this project include, for example: Engbersen 1999; Engbersen et al. 2002b; Burgers/Engbersen 1996.

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### **Mexican Migration Project and Ethnosurvey (USA)**

The Mexican Migration Project is a comprehensive binational data record and one of the most important sources of validated information on illegal migration in the USA. A similarly structured Latin American Migration Project has also existed for some years now.

The aim of the Mexican Migration Project (MMP) is “to gather reliable, representative data on documented and undocumented migration from Mexico to the United States”. The data record is not representative for all of Mexico or for Mexican migration into the USA, but, as Massey et al. claim, provides a “reasonably accurate snapshot” of the population of a substantial number of binational communities created as a result of repeated processes of migration and settlement (Massey/Durand/Malone 2002: 169).

The project was developed in 1982-83. It combines different quantitative and qualitative methods (ethnographic and survey methods) so as to avail of the advantages of both strategies. The implementation of intensive field studies in certain communities (villages, neighbourhoods) of the country of origin is an important characteristic of the data collection strategy used here, i.e. the ethno-survey. Thus, teams of ethnologists carry out interviews with a sample of households (around 200 in each case) that are representative of the community in question, collect standardized data with the help of semi-structured interviews and carry out in-depth interviews with officials and informants. This is preceded by a census of dwellings. The survey is carried out in four to eight new Mexican communities or neighbourhoods each year. By 2003, the survey contained data on 81 very different communities.

The scientists responsible for this research believe that in order to obtain a comprehensive and reliable picture of the situation it is necessary to carry out research in both the migrant’s country of origin and in the host country. In order to obtain a representative sample of members of the communities studied in Mexico living in the USA, the names and addresses of family members and friends of those surveyed during the fieldwork in Mexico were collected. In this way, it is aimed to obtain a USA sample constituting around 10 per cent of the Mexican sample, i.e. around 20 households per community, which are visited and interviewed in the USA.

Based on the data collected in the context of the MMP, it is possible to comment on the social, economic and demographic characteristics of legal and illegal migration, migration patterns, employment and wages in the USA, the legal status of Mexican migrants and their standard of living. Thus, it is possible to estimate how many Mexicans enter the USA legally or illegally and on a temporary or permanent basis, how migration movements change and whether these changes are linked to political measures. The project provides bases on which questions as varied as the efficacy of border control measures (e.g. how likely it is that a migrant who has crossed the border illegally will be caught) and the relevance of social networks can be examined.

The MMP data are publicly accessible on the project website: [www.pop.upenn.edu/mexmig](http://www.pop.upenn.edu/mexmig)

A number of publications also exist which process the data collected by the projects. Descriptions of the Mexican Migration Projects can be found in:

Massey/Durand/Malone 2002, Appendix A, pp. 165-172; Massey/Capoferro 2003.

**The ISMU Surveys in Lombardy (Italy)**

The Italian foundation *Iniziativa e Studi sulla Multiethnicità/ISMU* (“Initiatives and Studies on Multi-Ethnicity”), which is based in Milan, has been commissioned by the regional authorities to carry out annual surveys of the non-national population in Lombardy since 2001. Four such cross-section surveys have now been carried out for all of Lombardy (2001, 2002, 2003, 2004). 8,000 non-nationals are interviewed for each survey, irrespective of their legal status. Thus, this survey constitutes both a central source for the study of the illegal population and for a systematic comparison of different elements of the non-national population in one of Italy’s economically most important regions.

The sampling method developed by Giancarlo Blangiardo functions as follows: all of the administrative areas in Lombardy are involved and the scope of the partial samples is based on the proportion of the total resident population represented by the migrant population. It is aimed to carry out at least 400-500 and at most 1000 interviews per administrative area. The weighting was conceived in such a way that it is possible to implement both comparisons between administrative areas and analyses for the region as a whole.

The following procedure is used to obtain a representative sample of the non-national population: it is assumed that members of the currently resident non-national population within a partial sample area frequent particular places and “meeting points” in the area (authorities, religious centres, leisure and entertainment centres, hospitals etc.). A detailed list of possible venues is compiled. A random sample *N* is drawn from this list and individuals encountered at the selected locations are interviewed. To avoid possible distortions (e.g. people who visit public locations frequently are more likely to be surveyed), for each person interviewed, information is recorded on the places they frequent and a series of weighting factors are calculated.

All of the informants complete a standardized questionnaire in the context of a face-to-face interview with trained interviewers. The questionnaire covers the main structural, individual and family factors (sex, age, family status, nationality, residence, work status, religious affiliation etc.) as well as questions on social contacts and access to welfare-state services. The questionnaire also includes information on the subjects’ legal status and the ways in which they entered Italy. They are also asked to specify the precise location where they crossed the Italian border. Migrants who are illegally resident in Italy are asked about previous phases of legal residence.

In terms of the evaluation of the quality of the data acquired by this project, a number of factors would suggest that the data collected is representative and reliable: firstly, the findings have been consistent over the three project phases that have already been evaluated. Secondly, and probably more importantly, the data obtained shortly before the amnesty granted to illegal migrants in Italy in 2002 largely coincide with the information on the people who were actually legalized.

The results of the survey are published in a series of annual reports (Blangiardo 2002; 2003; 2004). The report on the first series of surveys in 2001 is available in English (orders can be sent to [bancadati\\_or@ismu.org](mailto:bancadati_or@ismu.org)). Partial results are also available on the ISMU website (<http://www.ismu.org>).

Methodical questions regarding the sampling method used are explained in Blangiardo (1996; 1997; 1999). Detailed analyses (in Italian) of the survey data on illegal migration in Lombardy can be found in Blangiardo/Rimoldi (2002) and Blangiardo/Tanturri (2004).

## 2.2 Research methods

This section discusses some of the methodological issues and problems that arise in particular with respect to the estimation of the numbers of illegal migrants and in the investigation of their circumstances. Research on migration and illegality is confronted with significant methodical problems. Similar difficulties also face those carrying out research on other societal phenomena: for example, the homeless are not recorded in many official statistics and illegal migrants are not the only people who hesitate to provide information to interviewers due to the stigmatization or illegality of their behaviour (e.g. prostitutes, drug users, individuals infected with the HIV virus). Such groups, which are difficult to identify, locate and interview, and are not adequately represented in standard statistics and major surveys (see Schnell 1991), are described as “hidden”, “rare”, “elusive”, “special”, “hard-to-count” populations (see for general comments Spreen/Zwaagstra 1994; Sudman/Sirken/Cowan 1988; on male prostitution Wright 2001; on epidemiological research Hook/Regal 1995). As a rule, it is not possible to carry out representative surveys on these groups. Quota selection (that is not strictly randomly controlled) is equally impossible if the distribution of the relevant characteristics (i.e. the composition of the group according to age, sex etc.) is unknown. This involves certain disadvantages, thus it is “difficult to demonstrate the validity of conclusions to other scientists, and subjective elements of interpretation are more difficult to detect and control. Qualitative field studies are also difficult to replicate” (Massey/Capoferro 2003: 14). Larger volumes of data, which make it possible to make – albeit not strictly representative – estimations of the socio-demographic composition of illegal migrant groups and certain experiences (work, payment), can be obtained in the course of legalization campaigns.<sup>17</sup> Migrants who requested or obtained the legalization of their residence have been surveyed in the context of social-scientific studies in the USA and Italy.<sup>18</sup> In Germany, however, there has been no instance involving the comprehensive legalization of illegally resident migrants hitherto, and data from existing legalization channels (the granting of political asylum and exceptional leave to remain, the regulation of old cases) have not yet been evaluated.

Surveys carried out in the migrants’ countries of origin can sometimes provide important information. For example, the National Survey of Population Dynamics in Mexico has included questions on the migration experiences of household members in the USA since 1992.<sup>19</sup> People who are located in their home countries are possibly more willing to give

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17 A sample obtained in this way would not be representative of all formerly illegal migrants because legalization is only possible under certain conditions (e.g. being employed in recent years) and this option can only be availed of by certain migrants.

18 Two surveys were carried out by official bodies on illegal migrants in the USA who were legalized on the basis of the Immigration and Reform Act of 1986. The Legalized Population Survey (LPS) carried out by the US Immigration and Naturalization Service (INS) contains a randomly selected group of 6193 illegal migrants who lived in the USA in 1987/88 and applied for permanent residency there. The second survey, the Legalized Population Follow-up Survey (LPS2) carried out by the Bureau of International Labor Affairs of the U.S. Department of Labor examined the group (i.e. 4012 members of the first group) five years later, see Rytina 2002; Massey/ Capoferro 2003: 11-2 It was also possible to evaluate data obtained in the course of a legalization process in Italy, see Barbagli/ Colombo/Sciortino 2004.

19 “The information gathered on recent emigrants is rather limited, however, being confined to age, sex, marital status, and departure date for those still abroad at the time of the survey. Although additional socio-economic data are available on former migrants who have returned to the household, the

information as they have no sanctions to fear at the time of the interview. Their statements about absent household members or their own migration experiences can represent the basis for the estimation of the numbers of illegal migrants in the host country and provide other information about migration patterns and experiences.<sup>20</sup>

Researchers who work on smaller populations are largely forced to rely on qualitative methods. These have their strengths when it comes to the formulation of empirically-based questions and hypotheses, the development of typologies and possible categorizations, the recording of perceptions and patterns of interpretation and the identification of complex social entities and sequences of actions. In some cases, studies do not aim to present general assessments, but aim instead to present, for example, the “way of life and self-identification” of individuals (see, for example, Cyrus’s portraits of individual illegal migrants, here 2003a: 234; also 1997a). In addition to this, some authors have considered how studies can focus on carefully selected cross-sections of the study group and thus achieve substantiated judgements in contexts in which representative studies are not possible (Spren/Zwaagstra 1994; Heckathorn 1997).

**Interviews** with illegal migrants themselves and with different kinds of experts constitute the central basis of many studies on the topic of migration and illegality. Almost all of the academics and scientists who have worked on this issue in Germany report of particular difficulties in contacting those concerned and in obtaining open and comprehensive information from both the migrants themselves and from experts in administrative bodies and migration authorities. The existence of such problems is also reported in other countries. Thus, for example, Sarah Mahler, the author of a study on migrants originating from El Salvador in the USA, refers to the limits of traditional social-scientific methods: “To study them requires finding them; to find them requires patient, exhaustive networking; to understand them requires entering their communities and earning their trust” (1995: 26). Many authors express the view, however, that research in this area in Germany is rendered particularly difficult by the intensity of migration controls, the fear of discovery and the corresponding distrust of people who ask questions about illegal migration. Whether this is actually the case can only be shown through more intensive and comparative research activity.

It is almost impossible to find informants through controlled random sampling. In the main, contact is established through particular individuals or locations and this means that the selection of informants is “filtered” in a particular way. Researchers who contact migrants through social workers or churches, for example, will most likely encounter people with particular problems. It may be easier to establish contact with people of particular nationalities, thanks to the existence of ethnic networks or approachable organizations, or because the individuals contacted in this way are less fearful of discovery. If informants are contacted by means of a snowball process (also referred to as “chain referral sampling”, i.e. initial informants nominate others), contact will most likely be made

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survey asks no specific questions about their migratory experience and does not capture migrants who have settled in the U.S. or who travel within entire households”(Massey/Capoferro 2003: 12).

20 The approach adopted by the Mexican Migration Project was explained above; a Polish-German migration project based on the same approach was launched at the University of Leipzig in 2004.

with the more cooperative individuals who are better integrated socially and have more social contacts (Heckathorn 1997: 75; in general Biernacki/Waldorf 1981).

In the case of **interviews with experts** (also referred to as “key informant sampling”), it is important that the evaluation correctly assesses these informants’ actual knowledge of the subject of the study and, hence also, the basis and value of their assessments. Thus, it should be kept in mind that experts only have limited knowledge, for example, of border arrests or the clients of advisory services and are, therefore, not in a strong position to provide reliable information on the number of illegal migrants in Germany or their general circumstances. Experts can also have an interest in exaggerating or underestimating problems (because, for example, a migration control authority wishes to show that it has things under control or a counselling service is claiming finance for the management of the problem group in question) (see Heckathorn 1997).

A study that aims to present well founded general assessments should consider all of the possible distortions that may arise through the selection of informants and develop strategies to estimate their influence (see Heckathorn 1997; Spreen/Zwaagstra 1994). For example, it is important to ensure that informants are preferably not linked through a social network. If informants are obtained through a snowball or network method, the selection of the first group of interviewees is crucial as any bias that exists at this point will tend to be reproduced. Thus, it is worth ensuring that different “types” are represented in the initial group of informants, i.e. representatives of both sexes, of different nationalities, of different motivations for residing in Germany (work, family reunion, flight from danger etc.). The “targeted sampling” method is a strategy that can be used to obtain a differentiated range of informants. This method is based on the identification of certain locations or “scenes” where members of the group to be studied can be encountered and the ethnographic analysis of social contexts and networks (Watters/Biernacki 1989). However, the possibility of bias cannot be excluded here either. As a general rule, it should be recorded (if necessary anonymously) how and through what point of contact individual informants were approached so as to enable the retrospective estimation of any possible bias.<sup>21</sup>

The studies on migration and illegality in Germany hitherto published do not always contain detailed information on how informants were recruited or systematically consider potential bias. However, Alt explains his approach in great detail and the effort made to verify the validity of the information provided by individual informants by comparing different sources (2003: 30ff.). In some cases, the number of interviews carried out is very small. The informants are generally – and probably of necessity – anonymous. Interviews are often not recorded, thus they are not available for further research, nor is it possible to verify the researchers’ reports and evaluations based on them. Also, the experts surveyed

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21 Heckathorn (1997) suggests reducing the bias in the snowball process in the context of a “Respondent-Driven Sampling” (RDS) by offering informants rewards if they nominate other interviewees from the study group (i.e. individuals infected with the HIV virus, drug users, illegal migrants etc.). Under certain circumstances, this may make it possible to reach a wider and more typical circle of informants. It is also helpful if other informants do not have to be nominated as such, but are directly recruited by individuals who have already been interviewed. However, this method is only applicable if it is possible to verify whether the potential informants actually belong to the study group and are not only pretending that they do in order to avail of a financial incentive. The method assumes that members of the group to be studied are linked in social networks.

are often not named and the conversations with them not always recorded. The situations in which interviews are held are not always clear. In some cases, these restrictions are unavoidable and sensible. Thus, Massey and Capoferro (2003: 15) also express the view that closed questions and inflexible methods are unsuitable and impracticable when carrying out interviews on controversial topics and clandestine behaviours. Nonetheless, such research requires a certain level of standardization to enable the collection of comparative information.

Indeed, a range of methods exist which have been used to estimate the size of less common population groups and, in particular, the numbers of non-nationals illegally resident in a country.<sup>22</sup> Precisely which of these methods are most suitable and applicable is strongly dependent on the relevant national circumstances. We shall now present a general overview of important methods available in this context before going on to discuss the concrete situation in Germany in the next chapter.

**Comparison of two or more data records** (also referred to as: dual or multiple record systems): Estimations made in accordance with the principle of discrepancy are based on the fact that at least two statistics are being compared which should actually correspond but do not. For example, in some countries in which illegally resident individuals are recorded in population censuses, this census data can be compared with the official data provided by the immigration authorities (Woodrow-Lafield 1998): if the census records a higher number of non-nationals than that recorded in the immigration authorities' data records, this may indicate the presence of illegal non-nationals.

**Capture-recapture techniques** have been used, for example, in epidemiological research (see Hook/Regal 1995 for detailed description of the method) and in social-scientific studies on prostitution. The method is based on the transfer of an approach that is standard practice in biological research. For example, in order to estimate the number of a certain type of fish in Lake Constance, fish are repeatedly caught, marked and released again. Based on the number of marked animals contained in the second, third, fourth etc. catches, it is possible to estimate the number in the entire population. This kind of technique can be used if at least two independent data sources are available, in which the group to be studied occurs and within which individuals are identifiable. As a study on male prostitution in western Germany shows, these data sources can be observations made in different locations (Wright 2001) – an approach which under certain circumstances could be applied to illegal migration. In the Netherlands, estimations of the number of illegal migrants in the country were obtained using this technique and a statistic process based on police arrest files, referred to here as the “truncated Poisson model (van der Heijden/Cruijff 2004; van der Heijden et al. 2003; see with critical evaluation Centraal Bureau voor Statistiek 2002). This presupposes, however, that illegal migrants are arrested, released and arrested again.

Many studies more or less systematically survey the **opinion of experts** and formulate assessments by comparing and weighing up the information they provide. With the Delphi method, experts are surveyed over several rounds and in the course of this process

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22 Massey/Capoferro (2003) discuss different data sources, in particular for the USA. Tapinos makes a distinction between estimates for migration and emigration, residence and employment and presents 16 methods (OECD 1999: 231-235; see also Delaunay/Tapinos 1998). A study carried out on behalf of the Netherlands federal statistics office (Centraal Bureau voor Statistiek 2002) contains an overview of the status of research in the Netherlands.

confronted with the other experts' estimations of the problem. What is generally important here is to enquire how exactly experts come to their views and analyse exactly what information is available to them. Failure to do this must prompt the assumption that such methods lack transparency and reliability.

It is also possible to ask informants of different nationalities how many migrants without legal status they know personally. This approach mainly makes sense in the case of small subgroups with a strong social network, whose individual members actually know all of their compatriots in a given town or area and would also be in a position to know about their legal status. It would be possible to reach an acceptable estimation of the number of illegal migrants in a small town by surveying a series of such contacts. In larger towns and cities, which tend to have more heterogeneous migrant populations, the addition of several more or less reliable figures will produce altogether insecure guesses, as is the case with, for example, Alt's estimations for Leipzig (1999: 50) and Munich (2003: 55).

To be able to carry out an estimation based on the **multiplicator principle**, a specified quantity and a multiplicator is required (see Vogel 2002). Thus, occasionally, the number of non-nationals seized while attempting to enter a country illegally is multiplied by a factor  $x$  in order to estimate the size of the illegal population. However, there is no reliable way of defining this  $x$  factor. Therefore, estimations for Germany based on such an approach are not reliable.

In order to earn the description as a "method", such an estimation must be based on a random sampling, in which an identifiable number of persons with and without legal status is represented. Thus, the responsible authorities in Germany could carry out controls on randomly selected places of employment and record both the number of people without legal residence status and that of regular employees. Under the precondition that this sample is representative for the situation in Germany, it would be possible to calculate the relation of illegal migrants and regular employees and, hence also, the total number of employed migrants illegally resident in Germany.

Information provided by charities about their clients is only of very limited use in the estimation of the numbers of illegal migrants (see Vogel 2002: 73). For example, the Catholic charity Caritas notes the residence status of individuals who avail of their advisory service (Hamburger et al. 2002: 81). However, charities only deal with certain illegal migrants, i.e. in the sense of a biased sample. It may be assumed that mainly people in particular difficulties and those who had contact with these organizations during a period of legal residence claim their assistance. It would only be possible to risk calculating a total on this basis if it is assumed that the proportion of the people among illegal migrants who approach advisory services is exactly the same as that which exists among, for example, non-nationals with exceptional leave to remain.

Killworth et al. propose "**network scale-up methods**" as a specific network approach for the estimation of population groups that are difficult to record (1998). Here, random people are asked how many individuals they know with particular characteristics. Questions are asked about the group in which the research is actually interested (e. g. persons infected with the HIV virus, homeless people, victims of rape) and about groups whose total number is known (people with particular first names, particular professions etc.) and an estimated number of homeless people, rape victims etc. is calculated on this basis.

Frank and Snijders proposed the use of a "one-wave **snowball sampling**" for the estimation of hidden populations (here the number of heroin users in Groningen) (1994). In this case, based on a complicated statistical process, the personal networks of selected members of the study population were surveyed and the "overlaps" of these social circles

identified. Network analyses assume that the members of a specific group have contacts with other group members because they are both, for example, illegal migrants.

The research of illegal migration poses a series of complex methodical problems. However, as demonstrated above, both general methodological reflections and concrete international research experience are available that could be used in the further development of this research field in Germany, which is still at a very early stage in its development. Questions concerning research strategies and methods should be given considerable emphasis here, and the courage and resources to undertake innovative studies should be found.

As the above outline of the general research situation shows, and the following report on individual issues will further demonstrate, the current status of knowledge on the problem of migration and illegality in Germany is very unsatisfactory and the available information is mainly concentrated on a few key areas. Not all scientific disciplines have responded to the problem adequately up to now and integrated it into their discussion of central topics. While particular interest has been shown in the situation of illegal migrants, no detailed analyses have been carried out, for example, on the media response, the internationally heterogeneous legal situation with respect to illegal migration or the area of political actors. This AKI Research Review, which provides an overview of the information available on the topic, necessarily reflects this situation. It should be noted here that this also means that our formulation of judgements on the phenomenon or problem of illegal migration is based on very partial information, and that the political decisions taken in this area up to now have been taken on a very uncertain basis.

### 3 The Size, Composition and Migration Patterns of the Non-National Population Illegally Resident in Germany

#### 3.1 Do we need better figures?

The first question that arises in this context is how many non-nationals live and work in Germany who do not have residence and work permits or exceptional leave to remain. Figures ranging between 100,000 and 1.5 million are repeatedly mentioned. However, all of the figures quoted are merely based on more or less “intelligent guesses” (Alt 1999: 50). There are no official figures and it is the view of the German government that it is not possible to provide reliable estimates at present.<sup>23</sup> Thus, we must now ask ourselves whether it would be of any help to invest resources in obtaining a more accurate estimate of the size and structure of this group. The following arguments would support such a move:

► Why it would be useful to have reliable estimates of the numbers involved in illegal migration and illegal residence in Germany

- The topic of illegal migration is politically controversial. Vague assumptions about large migration movements can reinforce fears concerning uncontrolled migration.
- Spending on migration controls has been increased significantly over the past two decades, both in Germany and in the European Union. For example, the number of people employed by the *Bundsgrenzschutz* (Federal Border Protection), the main body responsible for the control of Germany’s borders, increased from 25,000 in 1990 to approximately 40,000 in 2002.<sup>24</sup> The increased spending was justified, among other things, in relation to illegal migration. A substantiated estimation of the scale of illegal migration would provide a basis (but not the only one) for the evaluation as to whether this spending is justified.
- Charities and NGOs which are confronted with the problem of illegality in their practical work occasionally quote estimations of the numbers of illegal migrants in Germany for the purpose of highlighting the urgency of the problem and their need for additional resources to deal with it. As Jörg Alt suspects,<sup>25</sup> other political actors could be interested in keeping the numbers low because they do not want to deal with the problem of illegality. Authors, such as Lee (1993), believe that it is more plausible that the size of “invisible” population groups is generally overestimated: both the supporters of migration controls and the charities have tended to specify relatively high numbers so as

23 Schelter 1995. Both the Independent Commission on Migration to Germany (Unabhängige Kommission Zuwanderung 2001) and the migration report of the German Government Representative for Migration, Refugees and Integration (Beauftragte der Bundesregierung 2004) refrain from specifying the number of illegal migrants.

24 Spending increased from DM 1,303 million in 1990 (actual balance) to DM 3,304 million in 2002 (expected balance) and the workforce in the same period from 25,187 to 40,000 (Bundesministerium des Innern 2002a: 52). See also Dietrich 1998: 12-18.

25 Contribution to the debate at the AKI Workshop and [www.joerg-alt.de/Publikationen/Materialanlagen/04Statistik.doc](http://www.joerg-alt.de/Publikationen/Materialanlagen/04Statistik.doc)

to highlight the urgency of their requests for more resources. Academic estimates can correct politically-motivated overestimations and underestimations and help to place the debate on a more solid basis.

- Thirdly, under certain circumstances, assumptions about illegal migration can influence migration policy as a whole. Thus, it is occasionally argued that illegal migration limits the capacity for the admission of legal migrants (German Minister of the Interior Schily: “*Je weniger illegale Einwanderung möglich ist, desto mehr legale Möglichkeiten bestehen*” (“The less illegal migration is possible, the greater the legal options available”, BMI 2002b). Irrespective of whether one accepts this logic, the fact remains that high estimates of the scale of illegal migration can favour restrictive migration policy.

Thus, even if we should avoid giving the impression that the phenomenon of illegal migration can be accurately quantified, several arguments can be made in support of the efforts being made to provide more reliable estimates of the scale of illegal migration into Germany and the number of non-nationals illegally resident in the country.

### 3.2 The size of the population illegally resident in Germany

There is no reliable information available on the absolute number of migrants illegally resident in Germany.<sup>26</sup> The figures circulating in the media and in academic publications are based on a variety of sources:

► **There is no reliable information available on the number of migrants illegally resident in Germany**

Figures specified for the territory of the European Union are usually based on information provided by the International Organization for Migration (IOM). However, the IOM itself assesses its figure of “at least three million irregular migrants in the European Union” as a mere “educated guess” (World Migration 2003: 253). Other figures occasionally presented appear to be based on a rough estimate provided by the International Labour Organization in 1991 (Böhning 1991: 450).<sup>27</sup> For Germany, Böhning added the 300,000 asylum seekers whose applications were rejected in 1991 and – without explaining why – a further 350,000 illegal migrant workers (including seasonal workers). The International Centre for Migration Policy Development (ICMPD) also publishes estimated migration figures.<sup>28</sup> These figures are calculated by multiplying the number of people intercepted at EU borders by a factor of three which was

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26 Heckmann (2003: 11) argues that there is only a relatively well-founded assumption. The number of illegally resident non-nationals is at least as high as the number of people that the police arrest under suspicion of illegal residence in Germany. However, this number is not reliable as the police recording method does not appear to be consistent and the statistics include repeated arrests and cases involving unconfirmed suspicion.

27 This figure is quoted, for example, by Salt/Singleton/Hogarth (1994: 184). Schoorl et al. (1996: 208) mention this figure with a reference to Salt and use it as a basis for calculations for other years whereby they work on the assumption of unchanging ratios between illegal and illegal population groups and between members of different nationalities.

28 The ICMPD is an international organization with diplomatic status which has been supporting states in the prevention and counteraction of illegal migration since 1994.

selected on the basis of expert opinion (Widgren 2000: 65, 68), giving a total figure of 400,000 for migration in the year 2000. All of these figures should however be viewed as expert opinions and not as reliable estimates.

Among the various figures that circulate in the German media, Jörg Alt's estimation of "over one million illegal migrants" is one of the most frequently quoted (Alt 1999: 48ff.).<sup>29</sup> Alt bases his estimation on his own ethnographic research in Leipzig and Munich, on expert opinion and on the analysis of official files. He weighed the information from these different sources up against each other and in this way reached an "informed guess" on a figure of 8,000 illegal migrants resident in Leipzig and 40,000 in Munich. Alt then extrapolates this figure for Germany as a whole, working on the assumption that in cities with more than 200,000 inhabitants – like Munich and Leipzig – the number of illegal migrants (excluding those present temporarily) represents 2 to 3 per cent of the total population. On this basis, he arrives at an estimation of one million people living in Germany with no legal status. The fact that the initial estimates for Munich and Leipzig may have been incorrect is problematic; furthermore, these two cities may not be representative of German cities. In summary, Alt's figure is a hypothesis and – as he himself openly admits – should on no account be viewed as a reliable estimate.

More complex efforts have been made to estimate the size of the illegal population in various countries, e.g. the USA (see Woodrow-Lafield 1998; Bean et al. 2001), the Netherlands (Heijden et al. 2003) and Italy (see p. 20 above). As the overview of the different methods used in the previous section shows, a number of possibilities exist for estimating the size of the group of people without legal status in Germany. However, the information available hitherto has not made it possible to do this.

In terms of an estimation of this kind, it should be taken into account that the limitation of the focus to people living clandestinely may prove problematic as, in certain circumstances, people whose presence in Germany is illegal may be officially registered and recorded in the official statistics.<sup>30</sup> Furthermore, there are people who possess false identity documents or who have obtained authentic documents through deception or incorrect information (e.g. sham marriages). These individuals may be, but are not always, officially registered. If they have registered with the police, their "legal" residence status used may also include the possibility of legal employment. Finally, they are included in the official statistics on the non-national population with legal status. The estimations of the illegally resident migrant population obtained using the above-described methods do not include this group.

Finally, within the group of people who violate visa regulations (the working "tourists"), there may be a considerable number who reside only temporarily and possibly periodically in Germany (e. g. seasonal workers).<sup>31</sup> Thus, the number of illegally resident migrants can

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29 See also Annex 4 of Alt's second study (Alt 2003) and his website: [www.joerg-alt.de](http://www.joerg-alt.de).

30 See also Apap et al. 2000: 24; whereas Tapinos (OECD 1999: 229) assumes that illegal is synonymous with clandestine, Vogel (2002: 71) argues that there is probably a considerable number of illegal migrants in Germany who feature in the official records.

31 Based on a judgement of the Federal Court of Justice of 27 April 2005, the entry and residence of non-nationals who enter Germany with a tourist visa but intend to take up employment, should no longer be viewed as unauthorized per se (BGH 2005). Hitherto, the residence of so-called "working tourists" in Germany was treated as illegal.

display seasonal variation. Hence, estimations that aim to include the total number of illegal migrants present in a year must take this into account (Alt 2003: 56).

### 3.3 *Development trends*

It is somewhat easier to assess the trends in illegal migration than it is to estimate the total number of illegally resident non-nationals. As a rule, the law-enforcement authorities, i.e. the police and border police, generally compile statistics on the arrests they make. Thus, data is available about people who were apprehended at or near the border under suspicion of crossing the border without the necessary authorization. Furthermore, statistics exist on individuals who have been arrested by the police and classified as illegally present in Germany.<sup>32</sup> The main problem with an estimation of trends based on this data lies in the fact that the resources provided for migration controls have varied, and the circumstances under which the controls take place, can differ. For example, a large number of arrests at the border can be the result of intensified controls and not necessarily an indicator of an

► The number of illegal migrants in Germany may no longer be increasing, it is stagnant or possibly even decreasing

increase in illegal migration. Lederer (1999) and Vogel (1999; 2003a) attempt correspondingly to take changes in the intensity of controls into account in analyses that adopt a similar approach. As controls have been consistently intensified since the early 1990s, an increasing number of arrests is not a reliable indicator for a rise in the illegally resident population. However,

due the significant increase in the numbers of illegally resident non-nationals that could be observed in the different types of data produced by the law enforcement authorities and on the basis of expert opinion, Lederer and Nickel (1997: 43) believe that the view that the number of illegal migrants in Germany increased between 1990 and 1996 is acceptable.

This is also plausible based on the changes in the prevailing political conditions: up to 1989, the eastern border of the Federal Republic of Germany was very difficult to breach. However, in the immediate aftermath of the collapse of the German Democratic Republic, Germany's eastern border was almost uncontrolled for the duration of a transitory phase. On the whole, the opening of the borders between Eastern and Western Europe made it possible for a sizeable group of potential migrants to move to the Federal Republic of Germany, at the same time, however, very few legal options were made available to them. In addition, German asylum law was tightened up in 1993, a measure which largely blocked the path of legal migration into Germany and may, therefore, have prompted migrants to enter the country illegally.<sup>33</sup>

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32 The crime statistics compiled by the police are accessible on the website of the Bundesministerium des Inneren (BMI) (Federal Ministry of the Interior) and in full on the website of the Bundeskriminalamt (Federal Office of Criminal Investigation).

33 A study carried out on behalf of the British Home Office reports: "There is strong circumstantial evidence (but little authoritative research) to show that restrictive measures have led to growth in trafficking and illegal entry of both asylum seekers and economic migrants" (Zetter et al. 2003: 130).

Conversely, it may be assumed that the number of non-nationals illegally resident in Germany has declined if the number of arrests decreases despite intensified migration controls. A number of indicators support the view that this is the case for the period from 1998. Having reached a peak of 140,000 (1998), police statistics on non-national crime suspects without legal status show a reduction to 113,000 (2002), while in the same period the number of non-nationals apprehended at the border fell from 40,000 to 22,000 (see Table 2). These indicators would suggest that the number of people resident in Germany without legal status is no longer increasing, but is stagnant or possibly even in decline.

However, the possibility cannot be excluded that what has occurred is less a decline in illegal migration than a shift in the form taken by illegal entry and the basis for illegal residence in Germany. The citizens of many Eastern European states have been able to enter the Federal Republic of Germany without a visa for some time now (e.g. Rumania, since 2002). It is also widely assumed that the adoption of a more liberal approach to the granting of visas since 2000, in particular, has made it easier to obtain tourist visas and to use them as a way of gaining access to illegal employment. From January to August 2005, a German parliamentary committee examined the accusation that an order issued to the German embassies by the Foreign Ministry instructing them to give priority to the principle of freedom of travel in cases of doubt when issuing visas had opened the door to illegal migration and employment. The number of visas issued for short stays in Germany has in fact increased significantly in recent years. However, the parliamentary committee was unable to clarify whether these visas were actually being used for purposes other than holidays, in particular illicit work or even prostitution, and whether illegal migration has been made easier as a result of the liberalization of tourist traffic (Deutscher Bundestag 2005: in particular pp. 271-2). It is nevertheless conceivable that the numbers apprehended at the border are decreasing because more foreigners who would like to live and work in the Federal Republic of Germany are now entering the country as “tourists”. People with valid tourist visas face a small risk of being arrested during police controls as they can only be apprehended while working.<sup>34</sup> The police statistics may reflect this situation.

In addition to the aforementioned data, the information provided by the asylum statistics also represents an indicator of illegal migration. Since 1993 it has become very difficult for refugees to enter the Federal Republic of Germany legally and apply for political asylum. Based on the concept of safe third countries and because it is assumed that Germany is surrounded by safe third countries, refugees are usually turned back at the German border. Very few asylum applications are made at airports where legal entry is possible in principle.<sup>35</sup> Given that, nonetheless, thousands of asylum applications are made in Germany every year, it may safely be assumed that many asylum seekers entered Germany without

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34 On the altered legal position in this regard, see footnote 31.

35 As stated on the website of the *Bundesamt für die Anerkennung ausländischer Flüchtlinge (BAFL)* (Federal Office for Migration and Refugees – [www.bafl.de](http://www.bafl.de) now [www.bamf.de](http://www.bamf.de)): “In so far as persons have entered Germany via a safe third country or have already been in safety in any third country, there is no claim to recognition of asylum in accordance with the German Basic Law. In these cases, the recognition of asylum should only be considered if a return to the third country in question is not possible.” According to the figures available on the website on airport procedures, asylum procedures (*Aktenanlagen*) were initiated for fewer than 1000 refugees in 2002 and 2003; the maximum figure of 4590 was reached in 1995.

authorization.<sup>36</sup> What is not known, however, is whether and for how long people have actually lived in Germany before making an application for political asylum and hence obtaining a legal right of residence. Furthermore, the number of rejected asylum applications could constitute an indicator for illegal residence as it may be assumed that a proportion – which cannot, however, be accurately specified – of failed asylum applicants remain clandestinely in Germany. Thus, seen in this light, the asylum statistics support the assumption that up to the mid-1990s a particularly large number of people entered Germany illegally or became illegally resident migrants and that the numbers have been decreasing since then.

Table 2: Official statistics that could be used as indicators for illegal residence

Year	Unauthorized entry (BGS) <sup>a)</sup>	Suspects whose residence is classified as illegal <sup>b)</sup>	Initial asylum applications <sup>c)</sup>	Rejected asylum applications <sup>c)</sup>
1990	7 152	47 585		116 268
1991	23 587	43 455		128 820
1992	44 949	58 452		163 637
1993	54 298	88 148		347 991
1994	31 065	90 380		238 386
1995	29 604	97 007	127 937	117 939
1996	27 024	137 232	116 367	126 652
1997	35 205	138 146	104 353	101 886
1998	40 201	140 779	98 644	91 700
1999	37 789	128 320	95 113	80 231
2000	31 485	124 262	78 564	61 840
2001	28 560	122 583	88 287	55 402
2002	22 638	112 573	71 127	78 845
2003	19 974	96 197	50 563	63 002
2004		81 040	35 607	38 599

Sources: a) Annual report of the border police, i.e. Bundesgrenzschutz (BGS), various years; b) the police statistics produced by the Bundeskriminalamt (BKA), i.e. Federal Criminal Police Office, various years, 1991-1994 old Länder and all of Berlin, from 1995 all of the Federal Republic; this data contains in part the information in the first column (“In addition to the cases subsequently processed by the BGS, the BKA’s police statistics include people who were apprehended for unauthorized residence in the territory of the Federal Republic of Germany and for whom it was established that they entered the country illegally.” See Neske/Heckmann/Rühl 2004: 25) c) Bundesamt für die Anerkennung ausländischer Flüchtlinge, i.e. Federal Office for Migration and Refugees, (see [www.bamf.de](http://www.bamf.de) under “Statistik”).

36 The UNHCR assumes that most asylum seekers in Germany enter the country illegally by evading border controls or with a visa (UNHCR 2000: 108). The 2004 Annual Report of the *Sachverständigenrats für Zuwanderung und Integration* (Commission for Migration and Integration) (350) cites a working paper of the Federal Office for Migration and Refugees (*Bundesamt für die Anerkennung ausländischer Flüchtlinge*), according to which in surveys of individual groups of asylum seekers, 86 to 98 per cent indicate that they entered the country illegally.

Thus, the assumption that the number of non-nationals living in Germany without authorization increased from 1989 and has stagnated if not declined since the late 1990s can be justified on several grounds. However, we cannot be sure whether illegal migration is now taking place in part by means of visa-free entry and whether the size of the group without status has not actually decreased.

The following approaches could be adopted to improve the hitherto rather rudimentary status of information on the size and development of the illegal migrant population:

- New studies – also to be carried out in the migrants' countries of origin – should collect additional data using some of the above-described methods.
- Police statistics are the only official data that record instances of illegal residence with a degree of reliability. Through the evaluation for instance of the above-described methods practised in the Netherlands, it should be examined how these data could be evaluated in greater detail in Germany.
- Under certain circumstances, labour market controls could provide data for the estimation of the number of migrants illegally working in Germany.
- The *Ausländerzentralregister* (Central Register of Non-Nationals) also records non-nationals who are unlawfully resident in Germany. This register could also be evaluated more thoroughly.<sup>37</sup>

### 3.4 The composition and characteristics of Germany's illegal-resident population

As all of the information available up to now shows, Germany's illegally resident migrants, their motives for migration and the ways they ended up in Germany and in an illegal state are heterogeneous and include: work migrants, refugees who seek protection against war or persecution but do not obtain political asylum, children and older people who wish to live with families already resident in Germany, students and au pairs who contravene the conditions of their residence permits or stay longer than authorized because they want to earn money or simply wish to continue living in Germany. It is assumed that most of them entered Germany legally – as students, tourists, au pairs, seasonal workers etc. (Vogel 2003a). On the other hand, individuals also exist who are forced into illegality and violent oppressive relationships, in particular women who end up as prostitutes, exploited domestic workers and traded wives (Heine-Wiedenmann et al. 1992; Niesner et al. 1997; Cyrus 2004b). While the serious contraventions of human rights that occur here attract

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37 Vogel (2002: 71) refers to the fact that a considerable number of the non-nationals recorded in the *Ausländerzentralregister* (Central Register of Non-Nationals) are not noted as holding either a regular residence permit or exceptional leave to remain. The corresponding percentage varies between 4 per cent (82,133) of Turkish nationals and 46 per cent (1,483) of Lebanese nationals. This may be due to several reasons including transmission errors and detention prior to deportation (Kühne/Rüßler 2000: 112). However, quite a number of cases of these non-nationals who are recorded as not holding residence permits involve individuals whose residence in the Federal Republic of Germany is undesired and who find themselves in the legal grey area between illegality and toleration. The number involved here and other information about the individuals could be analyzed in greater detail.

particular interest, this phenomenon should not be overestimated in terms of its numerical contribution to illegal migration (Salt/Hogarth 2000: 98-9, 123).

It is not the object of this report to assess the reliable information available about migration routes and the relevance of organized smuggling. The topic of **human smuggling** has attracted a lot of attention in recent years – frequently in the context of the assumption that powerful economic and criminal networks are involved here. In their report on empirical knowledge on human trafficking and human smuggling,<sup>38</sup> however, Salt and Hogarth come to the conclusion that little solid, empirically-based information has been made available on these topics up to now and that “most statistical data on numbers trafficked are at best crude estimates” (Salt/Hogarth 2000: 29-38). In general, there are few comprehensive research approaches and little research has been carried out on issues such as the situation in the countries of origin, the motives of migrants in availing of the services of smugglers and the dependencies that possibly arise as a result. The organized perpetrators of human smuggling are as under-researched as the economy of smuggling itself (Salt/Hogarth 2000: 119ff.; see also Kyle/Koslowski 2001; Neske/Heckmann/Rühl 2004). Wolfgang Heinz (2004: 128) also confirms that “well-founded criminological knowledge in this area is extremely rare”. The German crime statistics of recent years record between 700 and 1100 victims of human trafficking, around 60 per cent of whom entered the country legally (Heinz 2004: 137, 133, with figures up to 2002). Thus, human trafficking and illegal migration only overlap in part.

In general, migrants without status do not constitute a homogeneous group. Apart from this fact, however, we have no reliable information about their demographic, social and ethnical structure. In terms of the situation in Germany, the crime statistics provide some information with regard to **distribution between the sexes**. These statistics contain information about people suspected of an offence (usually illegal entry and illegal residence) and who are classified as illegally resident in Germany. Of 112,573 individuals

► **Illegal migrants do not constitute a homogeneous group; migration motives and the paths leading to illegality vary significantly**

recorded in the statistics (2002) 27,140 (24.11 per cent) were women and 85,433 (75.89 per cent) were men. While it should be taken into account that these figures cannot be entirely representative, as men are possibly more stringently controlled and thus more likely to be apprehended than women,<sup>39</sup> however, they do permit the

very solid conclusion that of the non-nationals illegally resident in Germany at least one quarter are women.

Based on the available qualitative studies, it is not possible to draw detailed conclusions regarding the **national composition** of migrants without legal status. However, we can

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38 The use of these terms is intended to convey a distinction between voluntary forms of illegal migration using helpers or criminal smuggling organizations (e.g. human smuggling) on the one hand, and forms involving the exploitation of the migrants as workers and which involve the contravention of human rights, on the other (e.g. human trafficking), see Salt/Hogarth 2000: 119-20.

39 Men, who tend to work in the heavily controlled construction sector, are more likely to be apprehended than women who often work in private houses.

quite safely assume that illegal migrants in Germany come from all corners of the globe.<sup>40</sup> Statistics on apprehensions at the German border are also partly classified on the basis of nationality; however, it would be misleading to draw any far-reaching conclusions from these statistics as they tell us about people who did not succeed in entering Germany while we actually want to find out about those who live here. The published crime statistics do not classify the non-German suspects identified as illegally resident on the basis of nationality. However, they do contain information about the nationalities of those who are charged with contravention of migration and asylum law. As this group includes many non-nationals who are illegally resident in Germany,<sup>41</sup> Cyrus draws conclusions from this with respect to the countries of origin of the illegal migrants (2004a: 19-20). This is possible under two preconditions: firstly, the suspects recorded by the police should approximately reflect the nationality structure of non-nationals actually living illegally in Germany; secondly, we must be able to assume that the ratio (known to us) of legal to illegal migrants among those charged with contravention of the Aliens Act and Asylum Procedure Act corresponds roughly to the numerical ratio between the legal and illegal members of the individual nationalities. If this is the case, we may expect the illegal migrants in Germany to include a particularly high number of Poles and other Central and Eastern Europeans, Turks, members of the former Yugoslav states and people from Iraq, Vietnam, China and India.<sup>42</sup> Finally, if we assume that many asylum seekers have lived illegally in Germany at least for a time and that some of them remain illegally in Germany following the rejection of their asylum applications, we can draw – again rather daring – conclusions based on the national composition of all asylum seekers. In the past decade (1993 to 2002), 21 different countries featured among the ten main countries of origin for asylum seekers (for the individual years) with Afghanistan in top position, followed by Yugoslavia, Iraq and Turkey (BAFL 2003: Beilage (supplement) p. 3). However, we do not know either how many rejected asylum applicants remain illegally in Germany or whether members of certain nationalities tend to be more or less likely to do so.

A life of illegality is often **not a permanent state** and this is a fact that the available studies agree on. People move between legal and illegal situations and their lives are therefore not permanently shaped by the conditions of illegality. A few indications would prompt the assumption that most of those who are illegally resident in Germany only remain so for a limited period. According to a number of researchers, the migration patterns for Poles in particular are associated with repeated short stays and the maintenance of strong links with the home country (Morokvasic 1994; Cyrus 2000; Irek 1998). Also, studies carried out in Poland (based in part, however, on vague and incomplete data) point to a significant level of temporary emigration from Poland (Okólski 2000: 148; OECD 2003: 235; Stola 2001:

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40 Recent studies carried out on the Netherlands have observed an increasing heterogeneity in the nationalities of the illegal migrant population. Out of a total of over 200 nationalities in the study group investigated, the largest groups originated from Eastern Europe, East Africa, Western Europe and Asia (Engbersen et al. 2002b: 14).

41 In 2003, 132,378 non-German suspects were recorded who were charged with offences against the Immigration Act and Asylum Procedure Act; of these 88,729 were classified as illegal (BKA 2004, Annex of Tables, Table 61).

42 Of 132,378 non-German suspects, 15,013 were Polish and a total of 41,375 citizens of Central and Eastern European states, 14,172 Turks, 12,593 from former Yugoslavia and over 4,000 each from Iraq, China, Vietnam and India (BKA 2004: 117).

177, 189; Frejka/Okólski/Sword 1998). Based on repeated interviews and surveys in Poland, it was suggested that the most typical migration patterns involved a permanent return to the country of origin after a few years or legalization in Germany, mostly through marriage (Cyrus/Vogel 2002b: 27-8). Heckmann (2003: 9) formulated the hypothesis that due to stricter control mechanisms in Germany, it is generally very likely that illegal residence in Germany is only temporary or takes the form of a kind of shuttle migration. However, beyond the above-mentioned observations for Poland, there is no conclusive proof for this assumption. In general, it would appear plausible to assume that the situation of the migrants from neighbouring states (who can often enter the country without a visa and can, therefore, move back and forth) is very different to that of the majority of migrants from Asia and Africa, for whom a return to the country of origin from Germany is a very difficult if not impossible prospect.

#### 4 General Structural Conditions: The Law – Politics – Welfare System – Labour Market – Civil Society

The forms of migration and residence of non-nationals in Germany that are defined as illegal, the consequences this has both for those concerned and for German institutions, who actually migrates to Germany, can survive there illegally and the conditions under which this occurs, are all factors that are dependent on various general structural conditions.<sup>43</sup> It is one of the acknowledged rights of sovereign states to regulate the entry and residence of individuals who are not citizens of the state in question. How this happens in reality and which forms of entry and residence by non-nationals are defined as “illegal” is, however, a consequence of political decisions, traditions and structures which may be specific to individual national and historical contexts. A comparative analysis of migration control in Germany and the USA highlights the enormous significance of the “divergent conceptual structures and ... sharply different institutional settings” (Hailbronner/Martin/Motomura 1998: 203). Whether and under what circumstances it is possible to live as an illegal migrant depends on controls and sanctions, access to work, living accommodation and the welfare system, i.e. also specific national systems for the regulation of the labour market and organization of the welfare state.

Migration movements and patterns are also affected by certain reactions to migration movements and the structures generated as a result of these reactions. Thus, whether and when an individual opts for the alternative of illegal entry and/or illegal residence or the legal options of application for a residence permit, seasonal employment, right of entry of family members, refugee status etc. depends *inter alia* on the access options available. Whether people remain illegal or have the possibility of legalizing their status depends on legal regulations and is decided at political level. In an effort to highlight this interaction and the changing forms of illegal migration that react to contextual conditions and opportunity structures, reference has been made to the “responsive nature” (*Antwortcharakter*) (Klaus J. Bade) of the phenomenon. Finally, highly diverse new political and societal structures, ranging from specific control systems and instruments to advisory and health services and specific housing and labour markets, may arise in reaction to illegal migration movements.

► Whether and under what conditions life as an illegal migrant is possible, depends on specific national migration control systems and the organization of the welfare state

The function of this chapter is to outline in brief the basic features of the general structural conditions in Germany that play an important role in relation to the topic of this report. Their structure and effect will then be explored in greater detail in the following chapters.

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43 Such considerations are perceived differently by institutionalist and system theoretical approaches, for example.

#### 4.1 The Law

As is generally the case today (i.e. in Europe since the First World War), the Federal Republic of Germany makes the residence of non-nationals on its territory conditional on a permit or authorization, and exceptions to this rule are defined by national law or international agreements and contracts. When illegal entry into the country or illegal residence are suspected, the institution of criminal investigation proceedings is required under the principle of legality. However there is “no uniform definition of legal residence and therefore no generally valid distinction between legal and illegal residence” (Renner

► **The concept of illegal residence targets individuals who render themselves liable to prosecution due to (continual) illegal residence in the Federal Republic of Germany**

1999: 44). Up to now, no systematic comparative international studies have been carried out on the definition of illegal residence and the motives and effects of such definitions.<sup>44</sup> For example, the situation in the Federal Republic of Germany is characterized by the fact that a distinction is made between “unlawful” (*nicht rechtmässig*) and “illegal” (*illegal*) residence. Unlawful

residence is not necessarily subject to the threat of sanction as the unlawful residence of non-nationals in Germany may be tolerated or accepted.<sup>45</sup> Thus, lawyers propose that the “concept of illegal residence in relation to a non-national ... fundamentally be based on whether the individual in question may continue to reside in the territory of the Federal Republic of Germany without rendering themselves liable to prosecution” (Welte 2002: 54; similarly Heinhold 2000). In reality, however, “illegality” is very often not a clearly defined state<sup>46</sup> and, in many cases, the situation of those involved is dependent on the practices of the migration authorities. Exactly how the latter use their decision-making scope has not yet been systematically examined.

Thus, the legal conditions surrounding illegal migration should not be seen as static, instead changes should be examined in terms of their motives, objectives and effects. Therefore, the law should be understood as a dynamic instrument of societal problem definition and resolution. As a rule, legal norms are not always enforced or enforced at a comparable level of intensity (Hoffmann-Riem 2000: 34ff.). Thus, more recent archive-based studies show how, as a result of the competition for workers in the 1960s, the formally illegal entry of non-national job seekers was widely accepted and their residence and employment retrospectively legalized (Sonnenberger 2003b; Schönwälder 2001: 323ff.). Hence, it was only in the course of attempts to limit the employment of non-nationals that employers were threatened with sanctions for the unlawful employment of non-nationals from the early 1970s (Martin/Miller 2000: 20).

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44 See, however, an overview of the national law of the EU Member States in Guild 2004: 18ff.

45 Based on the law in force up to the end of 2004, situations arose involving both certified exceptional leave to remain (*bescheinigte Duldung*) and *de facto* leave to remain (*faktische Duldung*). In the latter case the migration authority did not issue the relevant certificate, but actually tolerated the residence of the individual in question, see Heinhold 2000.

46 Heinhold refers to flowing boundaries between residence that constitutes a punishable offence and that which does not: “Criminal liability is always down to the individual case” (2000).

## 4.2 Migration control systems and the implementation of the law

The effects of national differences in the structure of migration control systems and implementation of the law on the way in which illegal migration and illegal residence are dealt with have been subject to little systematic examination up to now. As a rule, in Germany, controls are mainly implemented through a system of residence and work permits as opposed to a visa system, as is the case, for example, in the USA (Hailbronner/Martin/Motomura 1998: 204). Moreover, Germany has a “highly developed system” of registration and surveillance (Hailbronner/Martin/Motomura 1998: 205) comprising mandatory registration for all residents, the possibility for different institutions to access each other’s data and a central register of non-nationals which greatly facilitates the checking of a non-national’s residence status. This system is also characterized by the social acceptance and normality of personal identification in Germany (see Vogel 2001). People who do not have the necessary identity documents are considerably restricted in their scope for movement in Germany, and access to accommodation etc. is made particularly difficult due to the obligation to prove one’s identity and compliance with the requirement of mandatory official registration. The situation in countries like the USA and Great Britain is different; it has not been standard practice there to carry identity papers at all times up to now and there is resistance to identity checks – however, again, no systematic comparative studies have been carried out on this phenomenon.<sup>47</sup> The information currently available on the subject does not enable us to assess whether – as suspected by Hailbronner/Martin/Motomura – these identification and control practices in Germany actually prevent a large number of non-nationals from being able to live and work there on a long-term basis (1998: 205); it is conceivable that long-term illegal settlement is made considerably more difficult by the fact that the conditions of illegal existence are influenced by this practice.

► Identification and migration control practices in Germany may limit long term illegal settlement

In addition to the general structure of migration control systems, the practices actually implemented by the authorities and migration control personnel also represent an important factor in this context. Thus, information provided by empirical public administration research and the sociology of organization (e.g. Kagan 1978; Lipsky 1980) show how the comprehensive use of decision-making scope and the internal logic of institutions influence the practical implementation of rules and regulations. Given that the implementation of migration controls within Germany is the responsibility of the *Länder*, there is scope for regional differences. However, the precise effects of this have not yet been subject to any systematic analysis. Checks and controls carried out at the workplace play a very important role in the discovery of illegal migrants in Germany (Vogel 2000). The form taken by these labour market controls, which were mainly carried out by the *Bundesanstalt für Arbeit/Bundesagentur für Arbeit* (Federal Employment Office/Federal Agency for Employment) and the Principal Customs Offices (*Hauptzollämter*) for a considerable period

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47 On the significance of civil libertarian traditions and the different evaluation of civil liberties, see Gosh 1998: 148.

and have been the sole responsibility of the customs since 2004, has hitherto received little attention in the context of academic research – just as is the case more generally for the way the German authorities deal with migration and illegality.<sup>48</sup> Some information is now available from a recently completed project which was financed by the European Commission and examined the influence of organization structures and cultures on the implementation of migration policy (IAPASIS 2003).<sup>49</sup> In this context, Cyrus and Vogel (2002a) stress, in particular, the involvement of employees at the lower levels of highly segmented and hierarchical structures and their tendency to interpret the regulations very narrowly.

### 4.3 European integration

The process of European integration has prompted important changes in the structure of migration control. While its activities in the general field of migration policy have been intensified since the late 1980s (see Santel 1995; Geddes 2000; Klos 1998; Tomei 2001), the European Union has become particularly involved in the arena of illegal migration since 1993 (see overview provided by Sieveking 1999: 96ff.). Due to the extension of freedom of movement within the community, citizens of a number of states can generally reside

#### ► The European Union: altered migration patterns, transfer of migration controls

lawfully in Germany. (While there is no absolute freedom of movement, citizens of EU Member States can at most commit a breach of administrative rule and do not make themselves liable to prosecution, see Hailbronner 1997, §

92: 6).<sup>50</sup> Moreover, migration patterns are influenced and the composition of migration to Germany structured on the basis of the visa policy coordinated by the European Union and the Schengen Agreement, in that access and repeated short stays are facilitated for citizens of certain states while they are made more difficult for citizens of other states due to the increasingly restrictive definition of the associated conditions (visa obligation, possible restrictions on the granting of visas).

Another important consequence of the European integration process is the transfer of migration controls to the external borders of the EU. This has given rise to a change in actor constellations and, possibly also, control practices. Research carried out by Virginie Guiraudon (2002; 2001) demonstrated how the forms taken by state action have changed in this context: not only have controls been transferred away from the actual borders of the state (both internally to an extended border area and externally into neighbouring states or the airports of distant countries), state tasks have also been transferred to private actors

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48 Alt (1999: 368-389) described the measures adopted to overcome illegal employment in the context the construction sector in Leipzig.

49 The fieldwork on Germany for this project was carried out in Berlin where *inter alia* problem-centred interviews were held with 11 employees of a local employment office and the work in this office was monitored for a week. The work of the Construction Control Group was studied as part of a case study on the implementation of controls.

50 However, statistics for the Netherlands list citizens of EU Member states as “apprehended illegal migrants”, see Engbersen et al. 2002: 27.

(e.g. the implementation of passport and visa controls by airline personnel) and the boundaries between public and private action have become less distinct. According to Guiraudon, due to the transfer of migration control to areas outside of the national borders, the political influence of civil society actors has been diminished and the observation of human rights regulations more difficult to monitor.

In addition to the EU, with the Vienna Process in 1991 (24/25 January) and the Berlin conference and “Budapest Process”<sup>51</sup> initiated as a result, a cooperation structure was created, the aim of which is to react in a targeted way to illegal migration by improving the exchange of information and coordination of measures between a large group of mainly Central and Eastern European states. Similar aims were adopted by the intergovernmental working groups established by the European Council. The ways in which such cooperation structures established in the specific context of migration control influence relations between states have not yet been researched in detail (see Salt/Hogarth 2000: 127; Freudenstein 2000; Vachudová 2000).

#### 4.4 Welfare state regimes

The welfare state is one of the most important general structural conditions for illegal migration and illegal residence. Based on Esping-Andersen, the German system is usually described as a conservative type of welfare state (see, for example, Schmid 2002: 108-110; Leibfried/Wagschal 2000; Kohl 2000). Characteristic of this system is the principle of social insurance which links social insurance and employment. In addition, individuals have a legal right to state assistance in emergencies which, in principle, is not limited to German nationals.<sup>52</sup> However, in reality, this system offers practically no access to illegal migrant whereas, although they offer a lower level of social security, in some cases, systems like the universalistic British or minimal USA welfare states, which are more predominantly based on citizenship, are easier to access by migrants without status as some payments are available to the resident population and not just to those who can prove that they made insurance contributions. In Great Britain this relative openness only applies,

► Welfare states based on social insurance provide little access for illegal migrants

51 See the explanations provided by the secretariat of the Budapest Process ICMPD (on the website [icmpd.org](http://icmpd.org)): “The Budapest process is a consultative forum of more than 40 Governments and 10 international organizations, aiming at preventing irregular migration and establishing sustainable systems for orderly migration in the wider European region.” It was initiated by the German government of the time.

52 According to § 120 of the Federal Social Security Act (*Bundessozialhilfegesetz/BSHG*) non-nationals who are not asylum applicants and are resident in the Federal Republic of Germany have a right to certain social services. The German Code of Social Law (*Sozialgesetzbuch*), 12th Book, § 23 states: “Non-nationals who are actually resident within the domestic territory shall be provided with subsistence assistance, assistance in the case of illness, assistance in the case of pregnancy and motherhood and assistance for nursing care in accordance with this book. (...) Furthermore, state welfare assistance shall also be paid if this is justified in the individual case.” Non-nationals who entered the country for the purpose of receiving welfare assistance do not receive it. Anyone who has “an executable duty to leave the country” shall receive payments in accordance with the Social Welfare Law for Asylum-Seekers (*Asylbewerberleistungsgesetz*), but not welfare payments.

however, to the health system, and since the mid-1990s an unrestricted residence permit is a precondition for access to non-contributions-based payments (Davy 2001: 948). Other European states also link the right to state assistance to legality of residence and, in some cases, additional preconditions (Davy 2001: 947-8). Thus, further studies should be carried out to identify the role played by different welfare state regimes in the context of illegal migration, on the one hand, and the role played by converging political objectives in restricting access to the services of the welfare state and deterring unwelcome migrants, on the other.

Hitherto, apart from the individual initiatives of non-governmental organizations, the presence of many thousands of illegal migrants in Germany has not led to the emergence of specific services in terms of social and/or health provisions.

It should also be noted that certain characteristics of the conservative type of welfare state could represent conditions conducive to illegal migration in that, for example, the public bodies do not provide personal services (e.g. childcare, nursing care); families are expected to provide them and often employ low-paid workers for this purpose (see Sciortino 2003).

#### 4.5 *The structure and regulation of the labour market*

The structure and regulation of the labour market are among the main structural conditions of illegal migration. Among the factors that are characteristic of the situation in Germany here are the (now limited) monopoly on employment placement of the *Bundesagentur für Arbeit* (Federal Agency for Employment), which was formerly known as the *Bundesanstalt für*

► Very little research has been carried out on the effects of intensive labour market controls and other specific features of the German labour market

*Arbeit* (Federal Employment Office), and the strong centralization of labour market controls, conditions which – as compared for example with the USA – make it easier to carry out migration controls (Hailbron-

ner/Martin/Motomura 1998: 204-5). As is usually the case in Europe, up to 2004 the procedure against the employment of illegally resident non-nationals was part of the general labour market controls implemented by the *Bundesanstalt für Arbeit* (Federal Employment Office), whereas corresponding controls in the USA were carried out by the migration authorities (Martin/Miller 2000: 1). A comparative study highlights the particularly high financial investment in Germany without, however, commenting on the effect of this intensive control activity (Martin/Miller 2000: 21-2). It would also be important to examine the extent to which other characteristics of the German situation that determine conditions for the employment of illegally resident non-nationals in Germany, for example the comprehensive legal codification of work contracts, the high level of worker participation which favours the long-term employment of a core workforce and the collective bargaining autonomy that hinders the development of a low wage sector.

#### 4.6 Civil society and social networks

How newly-arrived migrants live – be they legal or illegal – and are incorporated into a society depends to a considerable extent on both their relationships with ethnic and other social networks and the characteristics of these networks. Such networks are particularly important for illegal migrants as they may offer access to employment and accommodation, and provide support in situations of social difficulty. The existence of ethnic minorities in a country may also represent a background factor for illegal migration in that it gives rise to family reunification migration. Theoretical reflections and international research on this issue would suggest that social networks or the quantity and quality of social capital can influence the scope and structure of illegal migration in that they can help to diminish the costs and risks of illegal migration and, above all, facilitate access to the labour market (Espinosa/Massey 1997; Massey/Durand/Malone 2002: 146).

► As well as offering general support, social networks can provide access to employment and accommodation

In addition to this, the role of charities, churches and interest groups, the eventual existence of political movements for the improvement of the situation of illegal migrants and the social climate (i.e. tolerant or hostile) represent important general conditions for illegal migration. Thus, the ability to live and work illegally in a country should be considerably dependent on the extent to which such behaviour is accepted or brought to the attention of the police. Comprehensive studies have not been carried out hitherto on the attitudes of the German population to illegal migration, however, individual findings from the Population Policy Acceptance study carried out by the *Bundesinstitut für Bevölkerungsforschung* (Federal Institute for Population Research) are now available. According to these findings, the German population clearly disapproves of illegal migration. 72.8 per cent of those surveyed agreed with the statement “All illegal migrants should be deported from our country” and 87.5 per cent agreed with the imposition of severe fines on companies that employ illegal migrants. As opposed to this, 16 per cent agreed with the rather generally formulated statement that “*all* illegal migrants should be granted a *general* amnesty from time to time” (BiB 2005: 53, emphasis added by the authors of this report).<sup>53</sup>

There is no systematic information available on the role of the media or non-state actors in this area in Germany.<sup>54</sup>

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53 Around 4,000 German citizens between 18 and 65 years were surveyed between March and June 2003.

54 See, however, Cyrus 2003b on the trade unions in general and for some details Schwenken (2003), Locher (2003) and a study carried out on behalf of the Freudenberg Foundation (Kieser et al. 2000: 38).



## 5 The Economy and the Labour Market

A central precondition of illegal migration is the attraction of (supposed and real) jobs and, hence, opportunities to earn money. At the same time, the possibility and conditions of employment represent the central basis for migrants to remain in Germany and their chances of survival there. As stated at the outset of this report, the presence of illegally resident non-nationals in Germany is also widely viewed as a threat to the employment opportunities of nationals and an unacceptable burden on the public purse and welfare state. The difficult and hazardous working conditions faced by those involved are also identified as negative effects of illegal migration. It is furthermore argued that the availability of illegal (cheap) labour decelerates structural change and distorts competition (e. g. Bosch/Rehfeld 2003: 24, in reference to the construction sector).<sup>55</sup> On the other hand, it is also assumed that illegal migration has positive effects. It enables work to be carried out that would not otherwise be done and the payment of wages that would not otherwise be paid and would not therefore feed into consumption. Indeed, certain sectors of the economy which could not survive without low-wage employees are kept alive through illegal employment (for a summary, see Djajic 2001b: 156-7; OECD 1999: 239).

► **Illegal employment is assumed to have both negative and positive effects**

The questions that arise here concern the effects of illegal migration on the German labour market and the funding of the welfare state, and where illegal migrants in Germany find work, i.e. whether they are represented in all economic sectors or whether they are concentrated in certain areas of activity and sectors. Another important question is whether illegal migration represents a threat to the standards of employment and welfare available to legal residents in Germany or whether, on the contrary, it even contributes to creating even greater prosperity. This chapter discusses whether and in what way such questions can be answered. Apart from studies on the situation in the USA, the status of research in this area is very unsatisfactory although some studies have been carried out on this topic with reference to Germany from an economic and in some cases legal<sup>56</sup> and social-scientific perspective.

### 5.1 *The effects of illegal migration on the labour markets*

A large part of the economic research carried out on the economic implications of migration is theoretical in nature. However, in terms of the study of the effects of

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55 According to an OECD study, it is also believed possible that illegal employment results in the movement of capital and work into the informal sector where production costs less, in particular in southern Europe; however, this has not been demonstrated empirically (OECD 1999: 239).

56 See, for example, Hofherr 1999 on the consequences of illegal employment in terms of the law relating to employment contracts.

migration on the host societies, the legal status of migrants seldom features in the corresponding economic models as a significant variable. Instead, what emerges as important are factors such as supply and demand, the scale of migration movements and the human capital of the migrants, the flexibility of wages and the production-technology links between individual production factors (see Bauer 1998: 39ff.).

Empirical studies – mainly carried out in the USA – have hitherto failed to demonstrate that migration has any significant influence on the pay and working conditions of nationals. Although the results of the attempts made to estimate the general effects of migration on employment and wages are not entirely clear, most studies argue that these are limited, negligible or even non-existent (Simon 1995; Card 1990; Friedberg/Hunt 1995, Smith/Edmonston 1997: Chapters 4 und 5; Sorensen et al. 1992; Simon/Moore/Sullivan 1993; Hartog/Zorlu 2002; for a critical view, see Borjas/Freeman/Hunt 1996).<sup>57</sup> This view is also expressed in relation to the German labour market (see Bauer/Zimmermann 2000: 6; Pischke/Velling 1997). However, the different effects on different groups of employees (lowly qualified and highly qualified) should be taken into account, if possible. Furthermore, the data available in this area are far from optimal (see Borjas 2003).

The next question that arises in this context is whether there is any change to this situation when the legal status of the migrants is taken into account. Very little reliable data are

► **The available studies – mostly from the USA – show that illegal migration does not have any significant effects on the pay and employment of nationals**

available on illegal migration. As already demonstrated, little or nothing is known about either the scale of migration movements or important characteristics of migrants (i.e.

qualifications, language skills, work experience etc.). The studies available on this topic, carried out almost exclusively in the USA, also show that illegal migration has no significant effects on the pay and employment of nationals. However, it would appear possible that it may cause a slight reduction in pay and employment opportunities for lower qualified workers (Bean/Lowell/Taylor 1988; Friedberg/Hunt 1995; for a summary see Djajic 2001b: 155). An evaluation of relevant studies carried out by the OECD comes to the conclusion that, although the findings of these studies are not unanimous, they reveal that the effects of illegal migration are, at most, moderate (OECD 1999: 238).

Due to the heterogeneity of labour markets, the research findings available on the USA are only applicable to Europe or Germany to a limited extent and very few empirical studies have been carried out there up to now. In Italy, a general assessment of the situation was presented on the basis of estimations of the informal economy carried out for the national statistics authority, Istat. According to this assessment, illegal migration may have moderately negative effects on the pay and employment of nationals in some sectors, in particular in agriculture (Venturini 1999). Studies in Greece have also shown that illegal migration has negative effects on pay and employment prospects in the agricultural sector

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57 An evaluation of the studies available on the USA concludes: “Migrants do not increase the rate of unemployment among native Americans, even among minority, female, and low-skill workers. The effect of immigration on wages is negative for some of these special groups and positive for others, but the overall effects are small” (Simon 1995).

(Lianos/Sarris/Katseli 1996). However, these studies are predominantly exploratory and do not represent a comprehensive empirical analysis of the phenomenon.

Thus, against this background, the sweeping assumption that illegal migration represents a threat to the pay and jobs of nationals would not appear to be justified. However, the availability of cheaper labour can certainly lead to redundancies or wage reductions in certain sectors and for certain groups of employees. Thus, negative effects are possible, in particular for lowly qualified nationals.

► Negative effects may exist in individual sectors and for some groups of employees

As Alessandra Venturini argues, moreover, the availability of illegal workers could prevent companies from offering higher rates of pay, or from transferring production to areas in which unemployment rates are high (2004: 13). However, such effects have not been demonstrated empirically.

In general, the effects of illegal migration on labour markets are clearly very limited and the sometimes dramatic references to the threat to the employment and pay of nationals are unnecessary. Several factors can be identified that explain the limited effects that do exist:

Irrespective of occasionally startling references to overall figures, in all developed western countries, illegal migrants only represent a small part of the potential workforce. It is very likely that they are more vulnerable to variations in the demand for workers and therefore have little long-term influence on the employment structure of a country. So-called “working tourists” tend to leave the host countries during economically difficult periods and return only when the situation has improved again.

Secondly, competition for jobs depends on the degree of segmentation of the labour market, i.e. the extent to which the employment options open to migrants differ from those open to native workers. It may be assumed that illegal migrants in Germany virtually only have access to employment in the informal economy and do not have access to regular jobs. If the illegal migrants work in “niches in the labour market which would not exist if there were no illegal migration” there is no question of “direct replacement effects” (Vogel 2003a: 161; see also Djajic 1997: 99). The question that arises here, therefore is what kind of work is done by the migrants who live and work illegally in Germany.

## ***5.2 The employment of illegal migrants in different sectors of the economy***

According to a recent German government report “almost all sectors of the economy are affected by the illegal employment of non-nationals. The sectors most affected are the construction and ancillary construction sectors, the hotel and hospitality sector, the industrial and commercial cleaning sector, agriculture and forestry, foodstuffs production, passenger and goods transport and the metal working and metal processing sector. The balance can differ according to regions and seasons. Companies in the entertainment sector (bars, night clubs, casinos) and those employing teams of canvassers are particularly prone to the employment of illegal non-national workers. The employment of illegal workers in private households and on private building sites has also recently become very widespread”

(Bundesregierung 2000: 44). The report furthermore states that “Breaches continue to be primarily observed in small and medium-sized enterprises. As opposed to this, larger companies observe the relevant regulations relating to residence and work permits for the most part.” Moreover, according to this report, illegal employment tends to occur in major population centres.

This statement would suggest that very precise information is available about the illegal employment of non-nationals in Germany. This is not, however, the case. The German government’s regular reports are based on information provided by the *Bundesanstalt für*

► **No reliable information is available on the illegal employment of non-nationals in individual economic sectors**

*Arbeit* (Federal Employment Office) now known as the *Bundesagentur für Arbeit* (Federal Agency for Employment), the individual *Länder*, the main customs offices and various organizations and ministries. The basis of individual estimations is often not transparent

or it is derived from individual examples. Workplace controls by the authorities are not systematically evaluated. In the absence of such systematic evaluation, the reports of the authorities on the raids carried out and cases of illegal employment discovered can only be dealt with as individual cases. Also, the countries of origin of the employees in question are not statistically recorded by the Federal Employment Office/Federal Agency for Employment; however, the government report does dare to make a statement about general trends, according to which many of the illegal migrants discovered are Polish, Czech and from the former Yugoslavia, and to the effect that many Asians can be found in the hotel and hospitality sector (Bundesregierung 2000: 45).

As the German government report notes, it is not possible to draw any conclusions about the scale of the illegal employment of non-nationals from the number of prosecutions arising from the exercise of employment without a work permit; “there are no reliable figures” on this (Bundesregierung 2000: 40-1). Furthermore, when “illegal employment” is referred to, what is often meant are all forms of unlawful employment, above all the employment of – possibly legally resident – non-nationals who do not have the necessary work permit, but also illegal practices in the employment of contract workers, i.e. the non-national employees of non-national companies who carry out certain tasks in Germany, or breaches of the conditions defined in the 1996 legislation on the posting of employees by companies (*Entsendegesetz*).

Thus, while it is not possible to make well-founded statements on this topic, some general assumptions on the employment of illegal migrants are plausible (Djajić 2001b: 156; see also Nienhüser 1999 on the construction sector):

- It may be assumed that they find employment – if at all – in areas in which there is a certain level of informal activity. In terms of their reliability, the statements that can be made about the scale and structure of the (commercial) “informal sector” are very limited. Even the terminology used to describe this sector is vague and diffuse (e.g. the “hidden”, “black”, “informal”, “underground” etc. economy). For example, voluntary activities and the rearing of children by parents are sometimes also classed as “informal economy” activities (Enste 2001: 231). Schneider proposes a more narrow working definition of the informal economy as that which involves all activities “that represent a

net product in terms of the convention of the national product, but are only partly identified in the existing official statistics” (2003). The OECD in turn defined “underground production” somewhat differently as all activities “that are productive and legal but are deliberately concealed from the public authorities to avoid payment of taxes or complying with regulations” (2002: 13). Some, but not all, of the activities included here come under the concept of the “informal sector”.<sup>58</sup>

Based on what is known as the cash-demand approach, for the year 2000 the informal sector in Germany including criminal activity was estimated at 15 per cent of gross domestic product (GDP), with around 10 per cent being attributed to illicit work (Enste 2001).<sup>59</sup> However, such estimations are far from uncontested.<sup>60</sup> In the context under discussion here, it should be taken into account that illicit work is carried out mainly by Germans and, presumably, by legally resident non-nationals. Schneider refers to an estimation of the number of illegally employed non-nationals, i.e. in the context of black economy activities, as 1.1 million for the year 2000 in Germany (2003: 12). However, the basis of this estimation remains unclear and it is, therefore, not possible to verify it.<sup>61</sup> Nonetheless, even international studies generally stress the importance of the informal economy for migrants, particularly if they are forced out of the formal economy (Kloostermann/van der Leun/Rath 1998). A flourishing informal economy may also offer employment opportunities for illegally resident migrants, for example, in small businesses run by their compatriots. However, there is no detailed information available on this phenomenon for Germany.

► The conditions of illegal employment: high wage costs, fluctuating demand

- The motives for the employment of illegal migrants include, firstly, the reduction of costs through the payment of lower wages and the avoidance of employers’ social security payments and expenses related to occupational health and safety and, secondly, the shortage of manpower (usually in connection with specific types of work, seasonal and short-term activities). Thus, they are more likely to find employment in places where wage costs are relatively high, competition is intense and the demand for manpower varies.
- They are more likely to be employed in areas that are protected against migration controls to a certain extent, either because the authorities are willing to tolerate breaches

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58 The term “informal sector” is used in very different ways and in part diffusely. The OECD proposes the limitation of the term to productive activities which pursue the objective of generating income and employment for the individuals in question in small units (2002: 13, 162). For a different perspective, see Portes/Haller 2002.

59 The Bundesministerium der Finanzen (Federal Ministry of Finance) refers to economic studies, according to which the capacity of the informal economy represents around 17 per cent of GDP (Monatsbericht 3/2004: 67).

60 The German government remarks that economic approaches do not lead to “sufficiently substantiated or methodically acceptable findings” (2003: 1).

61 As it seems, this refers to non-nationals who are both legally and illegally resident in Germany are obviously intended here. Other estimations of the number of illegal workers as cited in Boswell/Straubhaar (2004: 4) are not transparent.

of the law or because workplace controls are made difficult by the inaccessibility, large numbers and varying locations of the workplaces.

- Finally, it is plausible that due to their high levels of fluctuation and the risk of discovery, illegal migrants are over-represented in employment situations, in which qualifications are standardized and workers can easily be replaced.
- As a general rule, migrant workers are often recruited for activities that are labour-intensive, for which rationalization options are limited and for which there are strong fluctuations in demand. Another typical feature is that these production activities cannot easily be transferred to low-wage economies.
- As emerged clearly in the previous chapter, different country-specific contexts offer different opportunities for the employment of illegal migrants. Relevant in this context are various aspects of the country's economic structure, the openness or closedness of the national market, the welfare state regime and density of workplace controls. Thus, it is conceivable that due to the density and efficacy of workplace controls in Germany a narrower range of activities is open to illegal migrants than in some other countries.

### *Agriculture*

Some of the aforementioned features that may promote the employment of illegally resident migrants can be found in the agricultural sector: this is above all a very labour-intensive sector and the demand for manpower varies from season to season. Moreover, in several European countries comprehensive rationalization stands in the way of the political will to protect the small agricultural operations; and given that it is mainly seen as politically desirable to maintain a national agricultural sector, production is not transferred to low-wage economies.

In 2001 only 2.5 per cent of the workforce in Germany were employed in agriculture, forestry and the fishing industry. Overall, the numbers employed in agriculture have

► **Illegal employment is being largely replaced by the seasonal recruitment of legal non-national workers**

declined since 1992, although the employment of non-family members has increased in significance.

In 2001 around 21 per cent of the workers employed in agricultural business were seasonal workers, a figure that highlights the variability of

the demand for labour in this sector (Fasterding/Rixen 2003). Since the early 1990s, the seasonal employment of non-nationals has become increasingly important. Since 1991, it has been possible to legally employ workers from certain Eastern European countries for a maximum of three months per worker per year.<sup>62</sup> This provision has clearly made it possible to replace illegal forms of employment with legal ones. Thus, according to Becker and Heller, the situation whereby in the first year in which it was possible to legally recruit seasonal workers, 74,600 of 78,594 seasonal workers were specifically requested by German

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<sup>62</sup> These workers may be employed for a maximum of three months per year and must repeatedly return to their countries of origin; they are paid on the basis of special tariff categories for harvest and seasonal workers (Becker/Heller 2002: 82-3).

employers, can most likely be explained by the fact that these workers were previously employed illegally. They believe that there was only a single “short period of illegal or semi-legal employment in the late 1980s” (Becker/Heller 2002: 75, 84). Research carried out in Poland by the Centre of Migration Research at the University of Warsaw also refers to the fact that the existence of legal migration options renders the illegal options unattractive (Kaczmarczyk 2003).<sup>63</sup> Given that the number of seasonally recruited workers increased from 150,000 in 1993 to 278,000 in 2000,<sup>64</sup> the demand for additional workers can be largely met through these legal recruitment options. There are some indications that illegal employment practices continue to exist, however, what is typically involved here is the exceeding of the authorized three-month employment period or the exercise of activities other than those specified (e.g. construction work instead of harvesting), and the illegal employment of non-nationals illegally resident in Germany is less common (Dietz 2004; Kaczmarczyk 2003; Rixen 2003).<sup>65</sup>

Some experts assume that, unlike in the construction sector, the (generally legal) employment of migrant workers in the agricultural sector has led to additional employment and the expansion of production and not to the replacement of national workers. The assumption that certain production activities can continue to exist due to the availability of cheaper foreign labour is particularly plausible in this instance (Becker/Heller 2002: 83; Rixen 2003). However, representatives of the relevant trade union assume that the availability of seasonal workers has enabled the implementation of restructuring processes, as a result of which the number of permanent jobs has been reduced, and only a small group of permanent and well-trained workers will be employed in addition to a large number of merely seasonally-employed workers (Spahn 1999). Nonetheless, the fact that the increase in the number of foreign seasonal workers employed was accompanied by a simultaneous decrease in the overall sector-specific unemployment would indicate that there is no replacement effect at work here (Hönekopp 2004).

### *The manufacturing sector*

With the exception of the textile industry, the manufacturing sector in Europe is not seen as an area in which significant numbers of illegal migrants are employed. Although some production processes are labour-intensive, the trend in recent years has involved the transfer of production to locations in low-wage economies rather than the illegal employment of non-nationals. Given that this sector requires special machines and correspondingly equipped factories, it is relatively easy to control. Moreover, the trade unions are traditionally strong in this area. Thus, all of these factors render the employment

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63 According to a survey of seasonal workers carried out in Poland, 4 per cent had already worked illegally; only a few intended to do this (Kaczmarczyk 2003).

64 The figures relate to the total placements of seasonal workers and do not concern agriculture exclusively, but in 90 per cent of cases. Since mid-1993 the seasonal employment of non-nationals from certain countries is authorized for agriculture and forestry, the hotel and hospitality sector, fruit and vegetable processing and the fairground sector, see Hönekopp 2004 on quantitative developments in this area. Approximately 80 per cent of the recruits are Poles.

65 Dietz bases her observations on interviews with representatives of farming associations, the trade union and the results of official workplace controls.

of illegal migrants unattractive. A study carried out in the Italian region of Lombardy showed that illegal migrants are not represented in significant numbers in the manufacturing sector there (Blangiardo 2002). In some areas, however, decentralization processes and the use of sub-contractors have made the partial employment of illegal workers more likely. Research findings exist, for example, that show how such workers are deployed in the French textile industry for the purpose of managing market fluctuations (Iskander 2000).

There are no research findings or other comprehensive and reliable information on the employment of illegal migrants in the manufacturing sector in Germany. The information available on illegal employment in the sector referred to above is based on individual examples. It shows that some non-nationals living illegally in Germany are employed in this sector, e.g. by an engine cleaning company in an automotive plant in Hessen (Zoll 2.5.2002) and in the meat-processing sector (Zoll 14.11.2002). However, it is not possible to comment on the number of illegal migrants involved, the economic significance of their employment in this sector or any competition for jobs.

### *The construction sector*

The information available on the employment of illegal migrants in the construction sector is somewhat better than that available on the manufacturing sector. Illegal employment in the construction sector has featured prominently in the public debate on the issue in Germany in recent years. Political intervention to protect national employees is expressly called for and also implemented in part. Illegal forms of employment are sometimes deemed responsible for the high unemployment levels in the construction sector.<sup>66</sup> Anyone wishing to estimate the relevance of the illegal employment of non-nationals in the construction sector should take into account that this debate also reflects the influence of the trade unions and the concerns about the development of a sector that is already strongly affected by restructuring. Hence, it is possible that the reality of the situation is exaggerated in the debate. The results of the workplace controls may also reflect the fact that the authorities tend to concentrate their control activities on building sites.

► **Illegal employment is relatively common in the construction sector**

If the occasionally circulating figures of several hundred thousand illegal workers on German building sites should be viewed with scepticism (Wiesehügel 2002), the statement to the effect “that according to available studies illegal employment is a relatively common occurrence in the construction sector” would appear tenable (Worthmann 2003: 66<sup>67</sup>) as both the results of official controls and the findings of various research projects carried out

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66 According to Klaus Wiesehügel, the President of IG Bau (German Trade Union for Construction, Forestry, Agriculture and the Environment), illegal employment is the main reason for the high level of unemployment among construction workers (Berliner Zeitung, 29.9.2001).

67 Data provided by the migration control authorities were evaluated for the “Zukunftsstudie Baugewerbe Nordrhein-Westfalen” (“Study on the future of the construction sector in North-Rhine Westphalia”) and experts, *inter alia* representatives of a regional employment office, the customs offices and the professional associations, were surveyed in the context of a workshop held in 2002 (Worthmann 2003: 67-8).

in this area point to this fact.<sup>68</sup> However, in many cases “illegal employment” in this case does not refer to the employment of non-nationals illegally resident in Germany alone. Other illegal practices can also be involved, and in some situations are more prevalent than the latter.<sup>69</sup> A series of qualitative studies also indicate that work on building sites is an important source of employment for illegal migrants (Alt 1999: 138ff.; P. Anderson 2003: 44-47; Cyrus 1995). Nonetheless, it should be taken into account that some observations originate from a period in which the sector experienced an extraordinary push due to various factors including German unification and the explosion of new building projects in Berlin, and was therefore subject to exceptional conditions.

Various factors that favour illegal employment prevail in this sector (on the specific characteristics of the construction sector, see Worthmann/Zühlke-Robinet 2003: 92-94): building work is labour-intensive and pro-rata labour costs are relatively high. Options for rationalization are limited as the further standardization of many of the elements of the production process is not an option. The sector is subject to strong seasonal and contractual variations, thus the manpower requirements are not steady. The recent rapid globalization of the construction industry and liberalization of markets in Europe were also significant in their effects, giving rise to an increase in economic pressure due to competition with foreign companies and, hence also, reinforcing the motives for the employment of lower-paid workers. Employment situations also became less transparent due to the growth in contracting and the presence of a large number of companies on the market. Thus, the illegal employment of non-nationals has been made easier. Smaller companies are under particular pressure, and approximately 84 per cent of companies in this sector have fewer than 20 employees (Bosch/Rehfeld 2003; Bosch/Zühlke-Robinet 1999: 252-3; Nienhüser 1999: 299-300; Hunger 2003).

► The globalization of the construction sector and liberalization of markets alter conditions and increase competitive pressure

While there is no definitive information available on the employment of illegal migrants in the construction sector, it is assumed that illegal unemployment occurs in particular among subcontractors, i.e. more predominantly in the primary construction sector and in areas involving the construction of standard products (e.g. office buildings, residential buildings), for which quality standards tend to be lower (Nienhüser 1999: 315; Syben 1999: 113). This is, in part, a suspicion based on the assumption that illegal migrants are usually less qualified than German construction workers.<sup>70</sup> This assumption may be false. Indeed, other

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68 Nienhüser writes that illegal employment in the construction sector represents “one of the common manpower strategies” (1999: 306). He bases his conclusions mainly on 28 semi-standardized interviews with experts, in particular personnel managers in construction companies and work council members, and *inter alia* the analysis of “company documents” (1999: 297). According to Syben, illegal employment has reached a “not insignificant scale” (1999: 112). In a text on the construction sector in Berlin and Brandenburg, Friedrich Schneider actually quotes precise figures, the origin of which is not, however, clear (Schneider 2002); for a critical analysis, see Vogel 2003b.

69 Worthmann uses the term “as a general category for all offences [...] that involve the contravention of legal regulations in connection with the employment of manpower” (2003: 66). See also the overview of different forms in Schönfelder 1999.

70 Syben refers rather more tentatively to indicators that the illegally employed non-nationals often do not have any solid qualifications (1999: 230). However, systematic research has not been carried out on their qualifications (1997: 495).

factors such as the duration of employment with one employer, language skills and familiarity with local conditions are more likely to limit the employment opportunities for illegal migrants. At the same time, it is occasionally assumed that they are increasingly being employed by private individuals for smaller construction and decorating projects (P. Anderson 2003: 46).

► **The employment of non-nationals illegally resident in Germany depends on the general workforce strategy of companies**

In the long term the employment of illegal workers will depend on the emphasis employers place on the permanent availability of a qualified workforce. As Werner Syben (1997; 1999: 227ff.) argues, there are strong indicators, but no clear proof, of a shift from the typical German production model, which is mainly based on the employment of skilled workers, to a “low-wage-hierarchy-oriented production model” (Syben 1999: 231), which involves the employment of mainly lowly-qualified workers and a smaller number of skilled workers. Illegal migrants are more likely to find employment in this situation. However, this kind of model would require more employees for supervision, training and supervisory tasks. Thus, as costs may not ultimately be lower, the decision for or against either models is not clearly predetermined (1999: 230-1, 234-5; for a similarly cautious view, see Hochstadt 2003<sup>71</sup>). In general, the construction sector is undergoing far-reaching changes, in the context of which the number of workers employed in the German building industry clearly declined in the aftermath of the unification boom.<sup>72</sup> This and the significant increase in unemployment in this sector are probably related to the replacement effects arising from strong international competition, but are also explained in terms of a more fundamental structural transformation (see Hochstadt 2003). Illegal migration was probably involved to a certain degree in these replacement effects but should be carefully weighed up against the processes of liberalization and restructuring currently under way in the sector.

*The services sector*

Among the activities in the services sector, the employment of migrants in private households has been examined more intensively in recent years. It is suggested in the literature that employment in this area is increasing and that a growing proportion of the migrants employed there do not have any legal residence status (B. Anderson 2001: 18-9). This assumption is also widely made in the case of Germany. It is suspected that while some of the migrants employed in private households have residence and work permits, e.g. as au pairs, others are living and working illegally in the Federal Republic (see Hess 2002; Gather/Meißner 2002: 120, 121; Heubach 2002: 167; also Rerrich 2002: 24; Lutz 2002b). These views have not, however, been adequately supported by empirical evidence.

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71 Hochstadt also argues, however, that the companies' strategy for the deployment of workers has changed as a result of the exceptional shortage of manpower in the early 1990s and the option of availing of workers from Eastern Europe. They now work permanently with non-national contractors (2003: 138-142).

72 In 1995 there were 1,411 million registered workers in the building and civil engineering trade; in 2002 there were 917,000. See table in Worthmann/Zühlke-Robinet 2003: 101.

The most important basis for the estimation of employment in the area of domestic services is provided by the data of the German Socio-Economic Panel Study (GOEP) (on different data sources and on the following data, see Schupp 2002). In 2000, 7.6 per cent of private German households specified that they regularly employ cleaning or household help; this corresponds to approximately 2.9 million employment relationships, although in some cases one individual may hold several positions. 3.7 per cent of households also specify that they occasionally employ household help. The data show a moderate increase for the period from 1991 and stagnation from 1994. The demand for household help may increase in the future due to increasing participation of women in the workforce and the increase in the number of pensioner households. However, this is merely speculation (Schupp 2002: 61-2). As already noted, conservative types of welfare states, like those of Germany, Austria, Italy and Spain, provide a context that favours private employment in households due to the inadequacy of public services (see on this point, p. 42).

► Significant employment opportunities in private households

While it may be assumed “that the majority of individuals working in private households are employed without social security contributions be it in the form of temporary employment, self-employment or illicit work” (Schupp 2002: 51), it is not possible to make any empirically based statements on the origin of these employees. Thus, neither is it possible to reliably estimate the proportion of migrants nor the non-nationals illegally resident in Germany employed in this sector, although together with the findings of some qualitative studies, everyday experience would indicate that this sector offers relevant employment opportunities for migrants living both legally and illegally in Germany. An ongoing research project at the Arbeitsstelle für Interkulturelle Pädagogik (Working Group for Intercultural Education) at the University of Münster promises to provide additional information about the living conditions, identities and social networks of these “new housemaids”.<sup>73</sup>

Illegal migrants are also employed in other branches of the services sector. Illegal migrants have been discovered, for example, during workplace controls in restaurants (Zoll 3.11.2003) and transport companies.<sup>74</sup> The results of a country-wide raid of cleaning companies would prompt the conclusion that although illegal migrants are employed in this area, the numbers are not significant.<sup>75</sup> Qualitative studies also contain indications of the employment of illegal migrants in restaurants, snack bars and small businesses (Alt 1999: 113; Alt 2003: 113; P. Anderson 2003: 54-56; Morokvasic 1994: 180). In addition, the employment of migrants in the sex and prostitution trade is a subject that has been the focus of considerable public attention and to which we shall return at a later point (see pp. 64-5).

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73 The project “Gender, Ethnizität, Identität Die neue Dienstmädchenfrage im Zeitalter der Globalisierung” (“Gender, Ethnicity, Identity. The Issue of New Housemaids in the Age of Globalization”) ran from 2001 to 2005.

74 In a country-wide action checking the drivers working for bus companies on 25.7.2003, 45 out of 4171 drivers checked were suspected as living illegally in Germany, see Zoll 30.7.2003; see also Zoll 20.5.2003.

75 Over 100 companies throughout the state were controlled. Out of 8514 individuals checked, 71 breaches of law concerning non-nationals were assumed (Zoll 28.11.2003).

Thus, in terms of the effects of illegal migration on the German economy and labour market, it would appear necessary to make some clear distinctions and differentiated observations for individual sectors and groups of employees. It will, however, be necessary to carry out further research before these distinctions and observations can be made with a significant degree of confidence. At present it is only possible to comment on some apparent trends: the construction sector and private households appear to be areas in which illegal migrants find employment; other areas (e.g. restaurants) may emerge as relevant in the findings of targeted research. It is not possible to make any substantiated comments on the replacement of national employees by illegal non-nationals. Given the highly segmented nature of the labour market, this may well be the case in particular in the construction sector, however it is not even clearly demonstrable there due to the variety of factors that affect the employment situation.

## 6 The Cost of Illegal Migration

Varying degrees of concern are expressed in the context of the public debate with regard to the cost of illegal migration to the state and the burden on the welfare-state system. For example, the German government has argued that the country's social security system is at risk due to the failure of illegal employees to pay their social welfare contributions (Bundesregierung 2000: 45). When estimating the cost of illegal migration, it is important to make a distinction between two groups of expenses. The first group involves costs incurred in the provision of publicly accessible goods and services, e.g. local public transport, street lighting etc. However, while illegal migrants clearly benefit from such spending, they cannot be said to generate any significant additional costs in this area. The second group concerns specific target-oriented expenses which should be differentiated from the first group. In Germany, however, illegal migrants can benefit at most from emergency health care services and, in some cases, educational services (i.e. schooling for their children). As already explained, because they do not pay any social security contributions, they do not have any right to the services provided by the insurance-based social security system. However, some German cities and the *Deutscher Städtetag* (German Association of Cities) complain of the costs that municipalities incur when they have to provide services for non-nationals who have entered the country illegally and do not apply for political asylum in accordance with the legislation governing benefits for asylum seekers (*Asylbewerberleistungsgesetz*), e.g. travel costs to the embassies of their countries of origin.<sup>76</sup> Such expenses have not yet been analyzed and reported on at federal level.<sup>77</sup>

► No significant burden on the public finances and social insurance funds

It is disputed whether the cost of migration control mechanisms at the borders and within the country and deportations can be added to the costs of illegal migration. In general, it is assumed that the cost of migration control in Europe has risen significantly in recent years and such increased costs are often justified with reference to illegal migration. Such control mechanisms fulfil a series of functions, however, and do not exist solely to deal with illegal migration. Even spending on border controls cannot be clearly defined as a cost associated with illegal migration as these controls also play a role in the prevention of smuggling and criminality. Given that such spending is, of course, ultimately the outcome of political decisions to implement either extended and expensive control mechanisms or, indeed, less

76 For example, the city of Cologne specifies costs of approximately DM 20 million for the year 2000 (see WDR 2001). The town of Schwerte quantifies its costs in 2000 at around DM 800,000 and DM 540,000 in 2001 (Hüppe 2002) and states that EUR 267,000 of costs arose, in particular for accommodation and health care, for non-nationals who entered the country illegally and did not apply for political asylum in 2003 (Stadt Schwerte 2004).

77 The Land of North-Rhine Westphalia presented a bill to the German Bundesrat (upper house of the German parliament), based on the justification of a working group of the Conference of Ministers of the Interior which assumes that non-nationals who enter the country without authorization give rise to costs of DM 10,000 per person per year. Thus, non-nationals who enter Germany illegally and do not apply for political asylum supposedly cost the country DM 200 million. This should at most be viewed as a very rough estimate as it is not based on a detailed survey.

intensive ones, it could be helpful to compare the expenses arising from different intervention strategies with each other.<sup>78</sup>

On the other hand, illegal migrants contribute to the public finances in that, although they do not pay social security contributions and generally do not pay income tax, as consumers they pay value-added tax. Some studies carried out in the USA came to the conclusion that the fiscal effects of illegal migration are neutral or even positive (see Djajić 2001b: 154; Simon 1995; OECD 1999: 240); however, a considerable number of illegal migrants (and asylum seekers) there pay social security contributions and income tax (Camarota 2004: 17). As opposed to this, a recent study carried out by the Center for Immigration Studies presents a more negative view in terms of the cost of illegal migration stating that it gives rise to a considerable burden on the public purse, mainly because, as US citizens, children born in the USA have the right to avail of all social services (Camarota 2004). These findings are not transferable to Germany. Illegal migration does not give rise to significant direct costs for the German welfare state. Such an effect may at most be assumed if it is suggested that illegally-employed migrants could be replaced by legal employees who would pay social security contributions. However, this argument is not entirely plausible. Thus, general concerns with respect to the burden that illegal migration places on the public finances would appear to be exaggerated; apart from the cost of border controls, which are not caused by illegal migration alone, there are no substantial financial costs arising from illegal migration.

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78 On the attempts to estimate corresponding costs for the USA, see Camarota 2004.

## 7 The Circumstances of Non-Nationals Illegally Resident in Germany

The general conditions and specific economic factors that can influence the possibilities and forms of unlawful residence by non-nationals in the Federal Republic of Germany have been outlined in the previous chapters. This chapter will now address the specific circumstances of illegal migrants, and, hence also, the question as to how illegality determines the options available for access to the social and economic system and the access to social resources provided by this, and to what extent the actions of illegal migrants are specifically determined by this situation. This chapter also returns to the problem definitions presented in the introduction: i.e. what can we say about the above-defined problem of “poverty and exploitation” in the context of the assumption that, attendant on illegal migration, a significant group of individuals live in German society whose situation is characterized by social marginalization, dependency and exploitation.

The studies described in Chapter 2 provide the empirical basis for the following comments. As already noted there, no representative and truly broadly-based systematic empirical studies have been carried out on illegal migrants in Germany; all we have is a limited number of individual observations and it is impossible to assess reliably the extent to which they are representative. Moreover, the available studies constitute mere snapshots and it is entirely possible that the circumstances of illegal migrants are subject to dynamic change (this is indicated, for example, by Irek 1998). In this chapter we present an inventory of the reliable information available on important aspects of the circumstances of illegal migrants in Germany, followed by basic observations on the four key areas of criminality, housing, and social networks.

### 7.1 *Living in illegality: transitions and grey areas*

As a rule, illegality does not constitute a clearly-defined permanent state. There is consensus in the literature with regard to the fact that many illegal migrants alternate between legal and illegal situations, e.g. they exceed the conditions of a visa and thus end up living unlawfully in Germany, but then obtain a student residence permit etc. Thus, their lives are only temporarily characterized by illegality. This applies in a different way to migrants who commute between Germany and their home countries and therefore have a main residence and access to the social security system and social contacts at home.

► As a rule, illegality does not constitute a clearly-defined permanent state

Secondly, a grey area exists between authorized residence and residence that is subject to sanction, and the number of migrants whose legal situation is not clearly defined and find themselves in this situation is not negligible. Thus, non-nationals exist who entered Germany without authorization, i.e. illegally, and whose continued presence is undesired,

but is tolerated for a certain period despite the fact that the individuals in question have not obtained a residence permit as stipulated by the law or exceptional leave to remain. This situation involves people who cannot be deported for various reasons.<sup>79</sup> In other cases, the individuals in question are requested to leave Germany, however they are given a certain period of grace up to their departure defined in a *Grenzübertrittsbescheinigung*, i.e. certificate stating that the person concerned will leave Germany within a given number of days. In some cases, the date by which they must leave the country remains open. The nature of residence authorized by means of such a certificate is “legally entirely unclarified” (Heinhold 2000), but can “not be classified as illegal residence in the real sense” (Heinhold 2003). Overall, there is a considerable number of non-nationals in Germany whose residence there is authorized despite the fact that they do not have a residence permit – in some cases thanks to their possession of a *Grenzübertrittsbescheinigung* and in others by virtue of the fact that the migration authorities simply tolerate their presence (Heinhold 2000). The “boundaries between ‘actual toleration’ (and hence non-sanctionable residence) and ‘non-arrest and non-deportation’ (and hence possibly sanctionable residence)” [are] fluid” (Heinhold 2000). The group referred to here does not live in hiding and has limited access to welfare state services in that the cities and municipalities grant assistance for living expenses (subsistence), minimal health care and in some cases accommodation, although in general they do not grant any work permits.

Thirdly, there is much common ground between the situations of migrants living in Germany unlawfully and those who reside there legally. For example, many first-generation migrants lack the linguistic and other cultural skills important for finding one’s bearings in a host society. They can often make little or no use of their educational and professional qualifications; they are less well integrated into social networks or only integrated in a specific way; they enjoy fewer political rights and hence fewer opportunities to exert an influence on the organization of societal and political life than German citizens.

► Both victims and competent and successful social actors

Fourthly and finally, however, the critical analysis of the available accounts of migrants and their circumstances should consider that the perception of people who live in illegality as victims may be misleading. When studies and statements are formulated from the perspective of individuals and organizations professionally involved in providing advice and assistance to migrants, it is reasonable to expect that such a perception may be involved. In addition, socio-psychological studies on social stigmatization have shown that researchers may erroneously apply their own standards and suspect low self-esteem and mental health problems while the individuals concerned apply different reference standards. In this case what may result is the underestimation of the fact that migrants can also be actors who actively pursue opportunities to improve their situations with imagination and adaptability. Migrants occasionally present themselves in interviews not as victims, but

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79 In 2001, Cornelia Sonntag-Wolgast, Secretary of State at the Bundesministerium des Inneren (Federal Ministry of the Interior), referred to “almost 8,000 Chinese without right of residence in Germany”. China only issues the documentation necessary for deportation “if the nationality and identity of the persons to be deported are established without doubt.” This often takes over one year. In the meantime, those affected reside in Germany without being subject to sanction, but find themselves in precarious circumstances.

as the kind of competent and successful actors who succeed in coping with a difficult situation in order to attain their objectives (Cyrus 2003a; Cyrus/Vogel 2002b; Elwert 2002; Irek 1998). Thus, their action strategies, their mobilization of social capital etc. constitute an important area for analysis (see, for example, Engbersen 2001). The picture can sometimes also be distorted by the way in which informants are obtained for interviews: researchers who establish contact with charity and advisory organizations will tend to encounter people who have problems, while contact established through autonomous ethnic organization would perhaps be more likely to lead them to the self-confident “entrepreneurs”. Therefore, when assessing the consequences of the restricted access to societal resources due to illegality, it is essential *inter alia* to document the ways in which contact is made with informants, to consider the possible consequences of this and to reflect on the heterogeneity of the affected group. In general, when examining the existing literature it should be taken into account that the often socially aware authors involved in the German debate wish to draw attention to social and political problems in particular and, as a result, may tend to focus on emergency situations, discrimination and disadvantage.

## 7.2 *Discovery and threat of sanction*

As consistently highlighted in the literature, the lives and situations of non-nationals who live and possibly work in the Federal Republic of Germany without the necessary official documents are fundamentally characterized by their fear of discovery and sanction. Non-nationals who are illegally resident in Germany can be deported and banned from re-entering the country. They can be taken into custody and immediately deported or imprisoned for their illegal residence.<sup>80</sup> The consequences they risk and how the authorities actually deal with illegal migrants who have been discovered has not yet been analyzed systematically.

The extent to which these risks dominate the lives of the migrants, depends on their backgrounds, the situations in their countries of origin and the distance of the latter from Germany. While migrants from central European countries often have no great fear of discovery, as they do not face any threat in their home countries and can also re-enter Germany quite easily, refugees from other parts of the world may have fears for their health, or even lives, if they are forced to return to their home countries. Anyone who is allowed to enter Germany without a visa is probably less likely to be recognized as living illegally in Germany as, in the event of being controlled by the authorities, they can always pretend to be in Germany solely for tourism purposes and for a short period. In this case, discovery is therefore mainly possible if the migrants are in paid employment.

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80 According to § 92 I *Ausländergesetz* (Immigration Act) anyone resident in the territory of the Federal Republic of Germany without permission in accordance with § 3 I *Ausländergesetz* or exceptional leave to remain in accordance with § 55 I *Ausländergesetz* may be penalized with a custodial sentence of up to 1 year or with a fine.

### 7.3 Exclusion from social and political structures and resources

A life lived in hiding means the denial of access to important social structures and resources.

In Germany, if you rent accommodation you are obliged to cooperate with the authorities in fulfilling the obligation to register with the police (Cremer 1998: 54). Thus, people who are not officially registered, face considerable difficulties when they try to rent accommodation.

In Germany, employers are obliged to request that employees present their income tax card and social security documents and to register employees with the relevant social security authority. As already stated, control mechanisms and practices, and hence their density and efficacy, differ in different countries: thus, in the USA it is possible for half of the illegal migrant households to take up employment for which they pay payroll taxes (Camarota

► **Effectively excluded from social services, education and the legal system**

2004: 24). It is also reported that migrants without legal status in Great Britain can have regular jobs (Cyrus/Düvell/Vogel 2004: 66). In the Netherlands, prior to 1991 it was possible for migrants living illegally

in the country to apply for a social security number and then engage in regular employment; however, this is no longer possible (Engbersen et al. 2002). As far as can be gleaned from the sketchy research available, in Germany, migrants who do not have work and residence permits are excluded from most paid work and must, therefore, resort to the irregular labour market.

However, the claiming of the services of the welfare state and education system is not always subject to legal residence status; on the other hand, as this can lead to discovery, people living illicitly in Germany are effectively excluded from the use of these resources (see p. 41-2 above). It is almost impossible for people whose residence in the Federal Republic of Germany is unlawful or merely tolerated to access even a bank account or insurance cover. Of course, when a public appearance results in sanction or deportation, participation in the formation of political will and social movements etc. is very unlikely and, in reality, a protest movement comparable with the French *sans papiers* movement has not hitherto emerged in Germany.

Illegal migrants are also largely excluded from individual protection and assistance against criminality and they have very little access to the legal system. Security issues are mostly discussed from the perspective of the host society, however, security is also a problem for the migrants themselves. It is reported in the literature that, from the perspective of the migrants, the danger of being exploited or badly treated is one of the most serious risks posed by illegal status. At the same time, it is also reported that they avoid contact with the police, for example, when they are victims of crime or involved in an accident (Alt 2003: 165-6). There are only a few accounts of illegal migrants taking recourse to the courts (e.g. Alt 2003: 140). As opposed to this, there are reports of individual instances of “self-help” whereby migrants put pressure on an employer who is reluctant to pay, or even seek the assistance of criminals to obtain their wages (Alt 1999: 159ff.). The failure to report crimes and refusal of witnesses to make themselves available could have negative repercussions for

society as a whole. To avoid this, in some regions in the USA the local police dissociate their task in fighting crime from that of the migration authorities and do not report migrants who approach them to the migration authorities (Stobbe 2003: 11-2).<sup>81</sup> Thus, the priorities adopted there in terms of the fight against crime and against illegal migration differ to those adopted in Germany.

#### **7.4 Access to work, accommodation and other societal resources**

##### *Living expenses, work, forced labour*

Given that migrants in Germany who do not have work or residence permits are unable to pursue any regular employment (unless they have forged documents), they must find a way of earning their living in the informal economy, through criminal activities or through the support of friends and relatives (sometimes also charities and church communities, see Sextro 2003: 19; Alt 2003: 179-180). Recent research has established for the Netherlands that a considerable proportion (over one third) of migrants without legal status are unemployed and dependent on the assistance of friends and relatives. This observation contradicts the assumption that illegal migration movements react flexibly to strong or weak demand for workers (Burgers/Engbersen 1996: 628). However, further research is required to establish whether this represents a general trend and whether the observations made for the Netherlands also apply to other countries. Research studies carried out in Italy have proven that unemployment among migrants without legal status tends to be rare. Thus, all three surveys in a comprehensive study carried out in the Lombardy region showed that the rate of employment among migrants without legal status is higher than that found among both the native Italian population and the regular non-national population (Blangiardo 2002, 2003, 2004). However, it is possible that these findings would not be confirmed in other contexts.

Even if they have acquired much higher formal qualifications in their home countries, illegal migrants presumably gain access to areas of the labour market in which minimal formal qualifications are expected and low wages are paid. Furthermore, it is generally assumed in the international literature that migrants without legal status mostly accept arduous and unpopular jobs for which they receive relatively low pay (e. g. Djajić 2001b: 156). However, it is conceivable that when the undeducted social security payments and unpaid taxes are taken into account, low-paid workers can receive a wage that is comparable to the net wage of regular workers. Reports exist for Germany, according to which there is little specific wage discrimination in individual areas and regions and, for example, Polish workers and household staff are paid exactly the same as German illicit workers with

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81 Holk Stobbe reports on the basis of interviews that the French *sans papiers* are aware “that the central task of the police authorities is the prevention of crime and do not automatically cooperate with ‘la migra’, i.e. the migration authorities. If they witness or are victims of a crime, they approach the police and courts” (2003: 11-2).

similar qualifications (Cyrus 1997, 1995; Alt 1999: 153ff.).<sup>82</sup> Overall, given the current status of information, it is not possible to make reliable statements as to whether illegal migrants are generally more badly paid than Germans who do similar work. At the same time, however, it must be taken into account that migrants without legal status are at considerable risk of being cheated by employers and have few opportunities to assert their rights.

At international level, attention is increasingly drawn, among others, by the International Labour Organization (ILO) to the existence of **forced labour**<sup>83</sup> among migrants.<sup>84</sup> Reliable information as to the extent to which such conditions exist among illegal migrants – within and beyond the area of prostitution – has not yet been made available. However, cases of violence and financial and sexual exploitation are known from the activities of advisory centres (e. g. agisra 2001). In a study commissioned by the International Labour Organisation (ILO), Cyrus (2004b) demonstrates a possible basic structure for forced labour in Germany based on 43 individual cases which he reconstructs by means of direct interviews with victims, expert interviews and literature research. According to this study, forced labour and exploitation do not appear to be limited to a particular economic sector. The practice of open violence tends to be exceptional because, due to their illegal status, these employees are already easily blackmailed. However, exploitation is not limited to the informal economy, but also occurs in the context of legal temporary employment relationships (*au pair*, seasonal work). In the documented cases, forced labour is rarely associated with the illegal crossing of the border; in most cases involving forced labour, visa provisions or the regulations governing temporary work permits are breached.

Forced **prostitution** represents a particularly serious violation of human rights. The proportion of migrants working in the sex industry is high;<sup>85</sup> however prostitution is not always necessarily accompanied by force and/or illegal residence. As a study based on expert interviews has shown, non-national women who live in Germany as tourists, spouses or “tolerated” migrants also engage in prostitution (Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozeß e. V. 2000). Some information, based predominantly on the experiences of advisory centres and individual interviews, is available on the specific living and working conditions of migrants illegally resident in Germany who engage in prostitution or in the sex industry against their

82 Otherwise, hourly wages of between EUR 2 and 9 are reported for individual periods since the 1990s (see Kienast/Marburger 1994; Irek 1998: 93, 100).

83 Germany has signed both the UN Convention against Transnational Organized Crime, including the additional “Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”. Exploitation is defined here as “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs” (Article 3a). Forced labour has not yet been defined under national law.

84 A paper compiled for a conference of the International Labour Organization states: “Available evidence suggests that many irregular migrant workers, imported into a destination country through networks of clandestine intermediaries, are subjected to forced labour conditions. This can be sweatshop labour, through physical restrictions on freedom of movement. .... In most cases however the coercion is likely to be less overt and more subtle, involving induced indebtedness, confiscation of papers, late payment of wages, and the ever present threat of denunciation to the authorities followed by deportation” (ILO 2002).

85 Figures of over 50 per cent of migrant women are quoted, see, for example, Bündnis 90/Die Grünen 2004.

will (see for general information Niesner et al. 1997: 149-165; Heine-Wiedenmann et al. 1992: Chapters 7 and 8; agisra 2001; Bode 2001). Niesner et al. stress the susceptibility to blackmail and dependency of the victims, the serious health risks, the low earnings and discrimination of these non-national women as compared to German women. Research has concentrated on the trafficking of women and possibilities for intervention by the police and the courts (see Heine-Wiedenmann et al. 1992; Niesner/Jones-Pauly 2001).

### *Criminality*

In the context of the public debate migrants without legal status tend to attract attention less as the victims of crime than as perpetrators. Thus Secretary of State Sonntag-Wolgast stated in 1999: “Illegal migration also increases criminality within our society”. Because they have to pay their smugglers and they are unable to earn money legally, illegal migrants have allegedly tended towards criminality or are susceptible to being blackmailed into committing criminal acts (2000: 23, 25). This link was examined in detail in the Netherlands and it emerged that in some migrant groups, and, in particular, those unable to rely on strong ethnic networks, crime is occasionally engaged in as a way of earning a living (Engbersen/van der Leun 2001; Engbersen et al. 2002: 7-8). However, for Germany there is no evidence of a significant link between illegal migration and criminality. Both the German government’s security report and the crime statistics (*Polizeiliche Kriminalstatistik*) stress that when illegal migrants are recorded as suspects, it is almost always on the grounds of illegal entry and illegal residence; thus, in the main, their crime is the act of illegal migration itself (Bundesregierung 2001b: 321; Bundeskriminalamt 2002: 121).<sup>86</sup> These facts support the presumption that, as a rule, migrants without legal status make every effort to respect the law so as not to risk exposure of their concealed existence in Germany.<sup>87</sup>

► No evidence of a significant link between illegal migration and criminality

### *Housing*

Although illegal migrants are largely excluded from the regular housing market, they manage to avail of various housing options in Germany, ranging from homelessness, temporary accommodation provided by employers (containers, barns, cellars, see, for example, Kienast/Marburger 1994: 53-4), accommodation with relatives, friends and acquaintances to commercial sub-contracting relationships (see Alt 2003: 143-4; Cyrus/Vogel 2002b: 17ff.). In contrast to the USA and Great Britain, it is exceptional in Germany for domestic staff to live with families. Such cases have only been reported for the households of non-nationals (diplomats, US military personnel etc.) (Heine-

86 The crime statistics for 2002 state: “Nine out of ten non-German suspects who were illegally resident in Germany were recorded as suspects for breach of the Immigration and Asylum Procedure Act (*Ausländer- und Asylverfahrensgesetz*)” (Bundeskriminalamt 2002: 12). A further 7.5 per cent were recorded on suspicion of the falsification of documents, thus again a fact directly related with illegality. On the police crime statistics, see also Neske/Heckmann/Rühl 2004: 36.

87 However, exceptional cases exist that would warrant further investigation. For example, the trading of contraband cigarettes was a very common survival strategy among the Vietnamese in the early 1990s, in particular, see Hillmann 2005.

Wiedenmann et al. 1992: 326; Schwalgin 2003). Access to accommodation is provided in part by social networks that function on the basis of solidarity, and a special housing market also appears to exist, in which extremely high rents are sometimes charged (Irek 1998; Schwalgin 2003).<sup>88</sup>

### *Education*

Although such children undoubtedly exist, in Germany, the number of children of school age coming from illegal non-national families does not appear to be very high. Even if they

► **Children often prevented from attending school**

have no legal status, children have the right to education, although in this case they are not subject to compulsory school attendance.<sup>89</sup>

However, this right can also only be availed of with difficulty as the risk arises that attending school will reveal their illegal residence status, as schools generally request proof of official registration and may report people who fail to produce it to the relevant authorities (Fodor 2001: 182-214). On the other hand, reports exist of cases in which schools accept the children of non-nationals without legal status through intermediaries (Alt 2003: 216-7; Erzbischöfliches Ordinariat 1999: 77ff.). The practice of the authorities in this area clearly differs from city to city.<sup>90</sup>

In some countries, e.g. the USA, the right of children to education is given priority over the discovery of unlawful residence, however this practice is strongly contested in some states (Aleinikoff/Martin/Motomura 1998: 651-677).

### *Illness and healthcare provision*

All of the relevant studies refer to the fear of accidents and health problems as one of the main issues faced by illegal migrants. It is also an acknowledged fact that migration involves considerable psychological stress and that migrants suffer from specific psychological

► **Health risk: there is no generally accessible emergency healthcare service**

problems (see for example, Kiesel/Kriechhammer-Yagmur/Lüpke 1994; Koch/Özek/Pfeiffer 1995).

Moreover, migrants without legal status have to deal with their particularly insecure situation and the fear of illness and discovery. However, this does not mean that illegal migrants

should be viewed as a group that is particularly prone to illness: a large number of migrants without status are presumably young adults and therefore belong to a population group

88 Based on research he carried out in Rotterdam, Jack Burgers (1998) formulated the theory that the general features of the housing market are formative in their influence in that the existence of a high proportion of social housing provides scope for ethnic solidarity, while market conditions dominate on an open housing market.

89 The Federal Ministry of the Interior informed the German parliament's Committee on Petitions to this effect (BMI 2001). Children under obligation to leave the country also have a right to attend school irrespective of their status.

90 Thus, the relevant member of the Berlin state government clarified that schools are not obliged to inform the authorities when they receive knowledge of the unlawful residence of a non-national. The city of Freiburg even stressed that it need not be informed in such cases, while the city of Cologne demands that schools request presentation of registration certificates and, where necessary, inform the relevant authorities (Senatsverwaltung für Inneres 2003; Stadt Freiburg 2003; Kummer 2003: 49ff.) See also for more details Cyrus 2004a: 62-65.

that has relatively few health problems. Many of them feel healthy and have strategies to deal with eventual illnesses (visits to the doctor using another person's insurance card, treatment at home), while others develop major health problems and, for example, do not seek treatment (for examples, see Stobbe 2005: 119-126). Although comprehensive literature is available on the topics of both migration and health, in general, (see Marschalck/Wiedl 2001) and on poverty and health (see, for example, Mielck 2000), there is no systematic information available on the actual health situation of this group.

Emergency medical treatment and some elements of the public health system (e.g. anonymous AIDS counselling) are open to all in Germany.<sup>91</sup> However, when their patients are unable to pay their bills, doctors and hospitals approach the social welfare authority, which in turn informs the migration authorities if the patient is not officially registered (Fodor 2001: 164ff.). From the perspective of the immigration legislation, doctors fear that they may face sanctions if they help individuals to continue in their illegal existence.

As already highlighted, the general structure of the health system and specific regulations in the host country have a significant influence on the situation of illegal migrants. Thus, in the USA a free emergency health service exists for the considerable number of Americans who do not have private health insurance, and illegal migrants can also access this service.<sup>92</sup> In Italy, it has been possible for migrants without legal status to register in a special category for the health system since 1998, and it is not admissible for the data to be passed on to other authorities. If the migrants are unable to pay for their treatment, a national *fondo sanitario* (health fund) covers the costs (Monzel 1999: 35-6). Thus, unlike in Germany, in some countries it is possible for illegal migrants to obtain emergency health care, at least, without the fear of discovery. Up to now, similar provisions have existed only in a few cities in Germany and arose in those instances through civil-society initiatives whereby support networks put migrants in contact with doctors and hospitals who will assist them free of charge or for a small fee (Alt 2003: 159; Fodor 2001: 180; Lindert 2003; Monzel 1999).

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91 For example, the Düsseldorf Health Office offers "Advice and treatment for health problems (in particular HIV, AIDS, STD) and contraception, for partnership and family problems, debt, drug addiction, pimping and human trafficking, professional reorientation, problems relating to social welfare law, assistance in making contact with other authorities and institutions, free tests for venereal diseases and other sexually transmitted illnesses, gynaecological examinations, prescription of contraceptives" for a target group of "female migrants who work in prostitution, irrespective of their status under the immigration legislation", see [www.duesseldorf.de](http://www.duesseldorf.de)

92 Stobbe refers to the fact that in the USA many municipal clinics do not forward data to the social immigration authorities and – in order to prevent the spread of illnesses and infections – have made it known that they refrain from establishing the residence status of patients. In addition to this, many clinics engage in "a kind of medical 'emergency social work' in which doctors examine and treat undocumented migrants and other needy individuals on the farms or in disadvantaged neighbourhoods" (Stobbe 2003: 13).

## 7.5 *Social networks*

Given the precarious nature of their situation, migrants without legal status are particularly dependent on social networks. At the same time, however, due to the nature of their circumstances, their ability to maintain social contact is limited. It may, however, be assumed that the social integration of individuals in various social networks also depends on whether the person in question has lived legally in Germany

### ► Work relationships and trust – ethnic networks – “transnational” family structures

for a period (as a student, asylum seeker) and established social contacts during this time or, for example, alternates between Germany and the home country and thus mainly seeks social contact at home. Working in private households provides a basis for contact with Germans. Of general sociological interest is the question as to how social structures that can fulfil the functions of the regular institutions are formed under the conditions of illegality, and as to how, under these conditions, the trust that is essential in many relationships can be formed and the commitment necessary in many working relationships can be established. Thus, attention is drawn in the literature to the fact that informal activities, for which conflicts cannot be resolved through recourse to the courts etc., are based on the fact that alternative mechanisms or “frameworks of trust” are formed which guarantee a certain level of commitment (Kloosterman/van der Leun/Rath 1998: 256; Portes/Haller 2002). “Trust in informal exchanges is generated both by shared identities and feelings and by the expectation that fraudulent actions will be penalized by the exclusion of the violator from key social networks and from future transactions” (Portes/Haller 2002: 12).

Various studies stress the significance of **ethnic networks**, through which, for example, work and accommodation can be accessed (e. g. Morokvasic 1994: 181; Irek 1998). Thus, it is possible that differently structured networks offer different opportunities. For example, when such networks are larger and incorporate more legally resident migrants, as exists according to Schwalgin (2003) in the case of the Poles, the potential for support is more effective than, for example, among the Latin Americans in Hamburg where the high proportion of illegal migrants in the network makes it more difficult to provide help and assistance. In general, ethnic networks represent “not only a helpful solidarity-based society” (Morokvasic 1994: 181), economic advantages may also be gained here (e. g. procurement of employment for a fee, employment of illegal compatriots for low wages) and forms of control exercised. Based on research that she carried out in the USA, Sarah Mahler warns against the romanticization of ethnic solidarity (1995: 222-226). Instead, it is important to note the social and political distinctions of the societies of origin and hence the different backgrounds of people from another country, the widespread economic exploitation of dependencies and the disintegration of social relations due to the fear of denunciation – which from the point of view of the group of migrants in question are ultimately the consequences of their exclusion from the societal mainstream.

The changes in **family structures** arising from migration have attracted increased attention in recent years. This involves, for example, family members embarking on temporally limited migration projects while the children are looked after and brought up by family members at home. Illegal migrants in Germany, in particular, are rarely in a position to have any children they may have accompany them. In her study on Filipino migrants, Shinozaki (2003) reports of cases in which parents did not see their children for several years. Furthermore, forms of shuttle migration, as frequently exist between Poland and Germany, can also affect family structures. Research in America and in the Philippines have shown how traditional family structures are breaking down as a result of migration processes for decades now and are being replaced by new forms of parenthood in transnational spaces (see Lutz 2003: 263-265, Lutz 2005: 78,81-3). Such processes should be studied further – also in relation to migration to Germany.

Insofar as the available information makes it possible to comment generally on the situation, it would indicate that the circumstances of migrants illegally resident in German vary significantly. Migrants without legal status are not necessarily people in need. However illegal existence can certainly involve difficulties and illegal migrants do not have access to important societal resources.

Significant gaps exist in the research on specific areas with regard to the circumstances of migrants without legal status. While we have some information on the range of problems and situations faced by illegal migrants, in many cases we are unable to decide how widespread or rare such situations and problems are. As already mentioned, hitherto the research has been concentrated on a few regions (in particular Berlin and Munich) and nationalities (in particular Poles), while, for example, less is known about asylum seekers living in Germany. Poverty reporting and general poverty research in Germany have not hitherto considered migrants without legal status.<sup>93</sup>

They merely confirm that migrants without legal residence status face “a very high risk of poverty as they have no access or only very limited access to the legal labour market and to state services. In addition to income poverty, very inadequate provision may be expected with respect to the situations involving education, work, housing, health and social contact” (Hanesch et al. 2000: 429). Seifert similarly assumes that, due to their weak legal position and lack of access to the social security system, the majority of migrants without legal residence status must be considered as being part of the “poverty potential” (2001: 204). Based on his work on the Netherlands, Engbersen prompts consideration of whether what is involved here is the emergence of a new “outsider class” (Engbersen 1999). The adoption of this provocative view would not appear to be appropriate to the situation in Germany today: it is contradicted by the strong fluctuation between legal and illegal status and between countries of origin and the Federal

► The emergence of an “underclass” is not (yet) observable

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93 The Federal government’s report on poverty and affluence only contains one footnote on people without legal residence status (Bundesregierung 2001a: 136). As the poverty report of the Hans-Böckler Foundation, German Conference of Trade Unions (DGB) and Paritätischer Wohlfahrtsverband confirms, studies based on the SOEP and hence only on the households of officially registered people do not include some migrant groups, including migrants who have no residence status (Hanesch et al. 2000: 429).

Republic, the probably limited duration of illegal existence in Germany and the presumably small size of the group involved – in the context of a population of around 80 million. However, irrespective of this, the fact remains that the illegal existence of many thousands of people in Germany is associated with a series of serious social and political problems.

## 8 Political Reactions to Illegal Migration

Although illegal migration has gained in significance as a political topic in recent years – in particular in relation to Germany – the systematic study of the forms, motives and outcomes of political and societal reaction to this phenomenon constitutes one of the most serious research deficits in the area. Reference was already made to key gaps in the knowledge available on the topic of illegal migration in Chapter 4. In general, more detailed studies should be carried out on how decisions to adopt certain intervention strategies are made, the objectives behind these strategies (e.g. reduction in illegal migration, reassurance of the general public), the implementation of the measures in question (e.g. a comparison of implementation by the *Länder* and individual cities) and the intended and unintended effects of individual measures. The implementation of systematic international comparative studies would also be highly desirable. A comprehensive account of political reactions to illegal migration should also include the examination of the motives, actions and effects of all important actors (including the churches, charities, trade unions, individual civil-society organizations, any self-organizations that may exist) and the actor networks.<sup>94</sup> Thus, Birgit Locher (2003) argued that an advocacy network of female political actors at European level succeeded in bringing about a change in the problem definition for the complex of female migration, prostitution and sexual exploitation in that human rights and women's rights perspectives have been increasingly replacing the previously dominating migration control perspectives since the 1990s. There is no systematic information available on media reporting in Germany and the opinions of the population on illegal migration in particular are unknown – although it is occasionally assumed that it is public opinion that forces politicians to introduce restrictions (see p. 8 above). Thus, due to the incomplete data available on the political reactions to illegal migration, the information presented below is limited; indeed, the exclusive focus on state reactions and the relative weight of restrictive interventions reflects the gaps that exist in the research situation.

In their treatment of migrants whose presence in Germany is illegal, over the past two decades, the federal and regional governments in Germany have given preference to measures focussing on fending off migration, on deterrence, discovery and deportation. Among the different political measures that influence illegal migration and the situation of migrants, the reorganization of the **border controls** in Europe has attracted particular attention. In the course of the 1990s, border controls in Europe were fundamentally restructured with the help of considerable increases in budget and personnel allocations by the relevant authorities, the introduction of more stringent penalties for smugglers and the use of new surveillance technologies (Dietrich 1998: 12ff.; Innere Sicherheit 2002; Alscher 2003: 4; more generally on the EU, see p. 40-1 above). The Schengen Agreement facilitated the introduction of standardized methods of controlling borders and promoted cooperation between police forces (Bigo 1996). It is not easy to assess whether the new and

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94 See Cyrus 2003b on the trade unions in general, and some references in a study carried out on behalf of the Freudenberg Foundation (Kieser et al. 2000: 38), in Schwenken (2003) and in Locher (2003).

intensified border control measures have been effective – in terms of their own objectives.<sup>95</sup> In general, very little (comprehensively accessible) data are available on migration control activities. The official data of the different prosecuting authorities are only published occasionally and often in a form that does not really facilitate in-depth secondary analyses. While data is collected at European Union level in the context of Cirefi,<sup>96</sup> most statistics are generally not available to researchers.<sup>97</sup> As explained at the outset, fluctuations in illegal migration movements are at best tentatively recorded and it is difficult to decide whether they can be explained by the intensified control activity or, for example, by changes in the labour markets.

The measures used to deal with illegal migration include identity checks, workplace controls and the control of access to welfare state services. **Labour market controls** do not exclusively target migrants illegally resident in a country, but also aim to limit the possibilities of finding work and are therefore intended to reduce the incentive to enter a country illegally. Thus, internationally, states are resorting increasingly to sanctions against employers and workplace controls – also with the aim of limiting illegal migration. The law

► **Sceptical report on the efficacy of sanctions against employers**

on the control of illegal employment (*Gesetz zur Bekämpfung der illegalen Beschäftigung*) enacted in Germany in 1981 introduced intensified measures which obliged all authorities to provide information to each other about illegal migration,

increased the fines that could be imposed for offences in this area, made the provision of support for illegal entry (smugglers) a punishable offence and obliged transport companies to cooperate with migration controls. In addition to the development of the legal instruments and intensification of sanctions, the number of staff involved in workplace controls at the *Bundesanstalt für Arbeit* (Federal Employment Office) was continually increased. An overview of the legal bases for the pursuit of illegal employment and the development of the responsible authorities can be found in certain legal studies (Riegel 2003: in particular p. 114; Hofherr 1999, pp. 13-16), however, these studies fail to provide a satisfactory analysis of the background to these measures. An independent evaluation, which was also intended to examine the use of resources in terms of the return on investments, has not yet been carried out. However, the OECD has been working on the procedures to prevent the illegal employment of non-national workers implemented by Member States since 1995. A study carried out for the OECD on sanctions against employers was sceptical in its conclusion: “In the light of the most recent European and American experiences, sanctions against employers would appear to be of very limited effectiveness” (OECD 1999: 244).<sup>98</sup> Philip Martin (2004) also assumes that the effectiveness of such sanctions has diminished. Several possible reasons for this are identified: firstly, the illegal employment of non-nationals can give rise to significant cost advantages and, secondly, the increasing use of

95 For reflections on the evaluation of migration control measures, see Snowden 1998b.

96 Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration, established following a resolution adopted in 1992, see <http://europa.eu.int/scadplus>. On its statistics, see Mitsilegas 2004.

97 However, reports do exist on the control of the external Schengen borders that are in part accessible, see Lüdi/Busch 1998.

98 See also Snowden 1998a which includes a discussion of various, mostly economic, indicators and a sceptical assessment.

subcontractors and programmes for fixed-term employment of non-nationals have made it more difficult to implement employment checks. Like Martin/Miller (2000), who present “lessons” from the practices adopted hitherto in the USA, France and Germany, Martin does not base his conclusions on a clear systematic evaluation of such measures.<sup>99</sup>

The restriction or denial of access to **welfare state services** can also have the function of deterring potential migrants.<sup>100</sup> Based on the information currently available, it is not possible to establish whether this effect has actually been achieved and, given the variety of factors that influence migration processes, this is difficult to verify empirically. However the belief that this strategy involves considerable costs is a plausible one: it reinforces the social exclusion of migrants without legal status, including any children among them. Furthermore, giving migration deterrence policy priority over preventive health services could promote the spread of infectious diseases.

In contrast to the above-described restrictive approach, a second complex of measures primarily aims to alter the circumstances of illegal migrants in the host country. Over the past 20 years, Belgium, France, Greece, Italy, the Netherlands, Portugal and Spain have implemented **legalization programmes**, in some cases on more than one occasion (de Bruycker 2000; Garson 2000). Spain adopted a new legalization campaign in 2004, and in Great Britain, the guaranteeing of freedom of movement for employees from the new European Union Member States had to some extent the nature of a programme for the legalization of migrants already resident in the country.<sup>101</sup> As yet, there has been no instance of the comprehensive legalization of illegal migrants in the Federal Republic of Germany. However, the (largely forgotten) fact that such a measure was seriously considered under the Brandt government of 1969 to 1974 (Schönwälder 2001: 502) shows that, in terms of the law and political culture, there are no insurmountable obstacles to the implementation of such a measure.<sup>102</sup> Individual legalizations in the sense of the granting of a residence title are a regular occurrence in Germany, for example in the case of individuals who cannot be deported (Hailbronner 2000).

► The operation and effect of legalization programmes are viewed as controversial

Different objectives are pursued through legalization programmes: thus, it may be a question of freeing up resources previously used for migration controls and the pursuit of illegal migrations. Further, the previously illegal population can thus be subjected to certain requirements (e.g. official registration) applicable to the non-national population as a

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99 Martin/Miller mention interviews with officials. See also Abella 2000 for references to other studies carried out in the USA.

100 This was discussed in connection with asylum policy, in particular, see, for example, Zuleeg 1985; Hailbronner 2001.

101 The United Kingdom granted freedom of movement to employees on 1 May 2004, however registration is required. In November 2004, the British government estimated that around 45 per cent of those who were registered between May and September (approximately 91,000 persons) had already been in the country prior to the accession of their home countries to the EU, see Home Office 2004.

102 The situation at the time involved a significant number of Turks who had entered the country outside of the terms of recruitment agreement. The DGB (German Conference of Trade Unions) was pushing for their legalization, but corresponding initiatives failed due to the opposition of the *Länder*. However, the migrants in question were legalized, at least temporarily, in the federal state of Hessen.

whole. It also gives governments a clear picture of the composition of their countries' populations. Legalization can also act in the control of illicit work and thus increase revenue from income tax and social security contributions. Finally, legalization brings an end to the specific social and political exclusion of migrants without legal status (see, for example, Kommission der Europäischen Gemeinschaften 2004: 11).

The functioning and effect of legalization programmes are seen as controversial. It is occasionally argued that they are not successful, as temporarily legalized migrants are not in a position in the long term to fulfil the conditions necessary for the extension of their work and residence permits and thus slip back into illegality (Garson 2000: 221-2). Reyneri expresses the view that the aim of reducing illicit work through legalization has not been comprehensively fulfilled in southern European countries, in particular, and that legalized migrants continue to work in the black economy (2001: 49-54). However, such claims are not comprehensively backed up with empirical evidence. On the contrary, the only empirical study on the long-term effects of legalization in Italy, which was carried out on the basis of the analysis of person-related files of the Italian Ministry of the Interior, shows

► Legalization is not a way of reducing undesired migration in the long term, but it does reduce social marginalization

that legalized migrants were entirely capable of fulfilling the conditions for legal residence over some years and only a negligible number became illegal again (Carfagna 2002). The second reservation expressed against legalization

programmes is that such amnesties often have a magnetic effect in that additional illegal migrants enter the country in the hope of future legalization.<sup>103</sup> While this view is not corroborated by the available evidence, expectations with regard to a reduction in migration are also unrealistic.<sup>104</sup> Thus, with its Immigration Reform and Control Act of 1986, the USA aimed to end illegal migration, firstly by threatening employers who engage illegal workers with sanctions and, secondly, by offering an amnesty to illegal migrants already resident in the country. The effects of this law are disputed; however, there is no doubt that it did not prevent illegal migration in the medium or long-term (Orrenius/Zavodny 2003; Bean/Lowell 2003: 11, 15; more generally OECD 1999: 243). In the view of various authors, this was not due to deficits in the intervention measures, but the strength of counteractive economic (and in part social) mechanisms (*ibid.*, see also Portes 2000: 5-6; Massey 2002). In general, there are reasons for doubting that the long term prevention of undesired migration can be achieved through legalization. It would appear more feasible that it could contribute to the reduction of social exclusion and "enable some illegal migrants to escape illegality, acquire a status more conducive to the enjoyment of human rights, and envisage better economic and social integration, either in their host countries or when returning to their countries of origin" (OECD 2000: 66; similarly Garson 2000: 218).

103 The German government adopts this line of argument, for example, in Bundesregierung 1999.

104 Georges Tapinos came to the conclusion that legalization does not have any effect on future migration flows and does not attract additional migrants (OECD 1999: 243). See also a study by the European Commission (Kommission der Europäischen Gemeinschaften 2004: 10-12) which identifies signs of an increase in illegal migration following a legalization programme in Belgium. Overall, however, this paper argues that migration flows remain uninfluenced by such programmes.

When evaluating the effects of certain policies it is important to consider not only the effects expressly pursued by the policy, but also any eventual **unintended effects**. It has been shown for the USA, for example, that intensified border controls did not prevent migration but promoted the transformation of shuttle migration into permanent settlement processes (Massey/Durand/Malone 2002: 105ff.). Based on the Dutch experience, Burgers and Engbersen (1996: 622) warn that a restrictive policy can promote marginalization processes. Massey et al. fear the threat to individual rights, civil liberties and human dignity (1998: 293).<sup>105</sup> The setting of priorities on national security can potentially, at least, be incompatible with the safeguarding of individual security and general integration-policy objectives (Salt 2000: 50). It is occasionally feared that a policy concentrated on fighting illegal migration and a possibly dramatic public presentation of problem with illegality could promote xenophobic moods and discrimination against minorities. As part of a case study, Cyrus and Vogel (2002a) analyzed whether discrimination against non-nationals arises in the course of identity controls in the workplace and came to the conclusion that, in a general sense, this is the case.<sup>106</sup> Furthermore, based on studies carried out on the German-Polish border, it has been argued that the societal climate changed and discrimination arose as a result of the involvement of the population in the tracing of illegal migrants when, for example, taxi drivers who had transported illegal migrants were harshly punished and then refused to carry foreign passengers (Dietrich 1998). Even if such effects are difficult to examine in detail, this does not mean that they do not exist and can be ignored in the context of decisions relating to political intervention.

► Unintended effects of political intervention on opinion, tolerance and migration patterns

Moreover, it is not only restrictive measures that may give rise to undesired effects. Thus, the more or less complete abstention from the regulation of migration in France for many decades (and the toleration of irregular migration) is held responsible for catastrophic social circumstances (D'Amato 2001: 147). Therefore, a policy of acceptance of comprehensive illegal migration processes and the illegal residence of a large number of non-nationals could be assessed as equally significant to the toleration of social marginalization processes and an increase in social inequality.

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105 “Attempts to suppress population flows that are a natural consequence of a nation’s insertion into these economic networks will not be successful, but they will present grave threats to individual rights, civil liberties, and human dignity” (Massey et al. 1998: 293).

106 Members of minorities were not necessarily badly treated; however controls tended to be based on ethnic features, i.e. controls were carried out wherever there was a concentration of foreign-looking people or workers speaking a foreign language.



## 9 Conclusions

As is the case in many other countries, the illegal residence of non-nationals and unlawful crossing of national borders are everyday events in Germany. The treatment of this phenomenon is fraught with multiple uncertainties and, in part, fears. At the same time, an urgent need for intervention has been identified by various political and societal actors. The objectives and instruments of such intervention are however, contested.

In view of the growing public interest in an allegedly increasingly volatile problem and the use of considerable resources to fight illegal migration, in particular, the knowledge available to us on the scale and nature of the phenomenon and the possibilities and effects of political intervention proves highly inadequate. The situation with respect to almost all aspects of illegal migration into Germany and the illegal residence of non-nationals in the country is that very little detailed and substantiated information is available: this concerns both the scale and composition of population groups illegally resident in Germany and their living conditions, the relevant labour market structures and the economic implications of illegal employment along with the motives and effects of political intervention.

It is clearly in the nature of the phenomenon that behaviour classified as unlawful is usually implemented in secret and is more difficult than other societal phenomena to record and describe in detail. However, it would be entirely possible – and at various points useful – to obtain more information: this report shows how it was possible, in other countries, to develop well designed and well implemented research projects and, in part also, obtain more comprehensive and substantiated information thanks to the authorities' interest and corresponding willingness to cooperate. In Germany the existing possibilities have not been comprehensively used, only some of the available research strategies implemented, only very limited resources made available for research efforts and little effort made, on the part of the authorities, to evaluate the conditions and effects of their own action.

Illegal migration and the unlawful residence of non-nationals in Germany are relevant phenomena and it is not possible to make anything approaching reliable statements on their quantitative scope. While various signs support the view that illegal migration increased significantly from around 1990, it is in no way certain that – as widely assumed – illegal migration and illegal residence are continuing to grow. As long as there are no new studies on this, all of the figures specified on the scale of illegal migration remain largely speculative. A series of – previously mentioned – reasons would support the investment of financial and personnel resources in the development of a reliable estimate of the scale of illegal migration into Germany. Considerable financial resources are invested today in overcoming a problem, on whose nature and scale we have little or no reliable information. Thus, political action in this area is implemented on a completely insecure knowledge base.

To avoid promoting unfounded fears of supposedly uncontrollable migration flows, the threat to jobs and an increase in criminality, this phenomenon must be dealt with responsibly and the making of dramatic unsubstantiated claims avoided. No developments have

been observed that would support the occasional warnings of a supposed threat to the constitutional state and political stability.

The generic term “illegal migration” describes different behaviours whose common denominator is the unlawful crossing of the border and/or an illegal stay in Germany, which otherwise may differ with regard to motives (family reunion, work, flight from persecution), patterns (shuttle migration to stays of several years) and living conditions (income, lifestyle and social protection). Decisions differ as to which of these behaviours should be tolerated and which threatened with sanctions, even within European states. In many cases – including Germany – the boundaries between legal and illegal residence are unclear. There is a justifiably broad consensus as to the fact that what we are dealing with here is a very varied phenomenon, that the situations of the people involved also differ significantly and that extreme difficulties, forced labour and sexual exploitation may be involved, although these phenomena are not necessarily typical. What is common to illegal migrants is their exclusion from participation in the main resources of this society and from its political will formation. An unknown number of children are denied elementary educational opportunities, and a considerable number of illegal migrants experience social and health difficulties and are excluded from the assistance and services available in the Federal Republic of Germany.

The economic effects of the illegal residence of non-nationals in Germany and, above all, their unlawful employment are contested in many regards. Plausible arguments are made, mainly by international research, in support of the view that the economic effects of illegal migration are not clearly negative and that it should not be generally assumed that it represents a significant threat to jobs and social standards. Distinctions should be made to a greater extent than hitherto between the different economic sectors and between the effects of globalization, illicit work in general and that specific to illegal migration.

The financial burdens on public budgets and the German welfare state are slight, in particular as illegal migrants are unable to claim many social services. However, the view that spending on migration control instruments should not be calculated as a cost of illegal migration is not entirely undisputed.

The topic of migration and illegality refers to contradictions between the fundamental norms and objectives of our society: between the individual freedoms that the migrants claim and the protective interests of state and society, between welfare-state norms and a reality that reflects deep social divisions, the right to justice and wide-ranging inequalities. Science and research can contribute to establishing a better understanding of the conditions and effects of political intervention and hence provide an informed basis for political action – should this be desired.

The problems posed by migration and illegality are concentrated in three areas: firstly, the limited sovereignty of the states, i.e. their (in many regards limited) ability to control the scale and composition of migration. A second problem area is the exclusion of a population group from participation in important resources of this society, above all when this leads to social difficulties and when children are involved. Thirdly, forms of sexual

exploitation and situations of dependence, which in some cases go as far as forms of forced labour, represent a very serious problem.

International experience shows that general attempts to prevent illegal migration and the illegal residence of non-nationals in Germany have no prospect of success. Various and mainly entirely desirable developments in our modern world (freedom of travel, means of transport, communication) as well as crises and conflicts reinforce the motives behind migration and extend the possibility of such action. Efforts to stem illegal migration should be weighed up in terms of costs and benefits and the unintended effects should also be taken into account (restriction of civil liberties, altered migration patterns, foreign policy implications). A policy that mainly concentrates on exclusion and deterrence must accept that it will promote marginalization processes. On the other hand, comprehensive tolerance of illegal migration processes and illegal employment of non-nationals can be synonymous with the acceptance of social exclusion processes and the lack of or inadequate protection of this group. The questions that arise here are whether segmented labour markets in which certain groups of people of other nationalities carry out unpopular and arduous tasks are to be desired, and whether the existence of a population group that is excluded from important aspects of societal involvement should be accepted or opposed: these are political decisions, even if they should always be considered from a humanitarian perspective. However, “between the extremes” of exclusion and toleration there is a range of options for action which have not yet been exploited flexibly or comprehensively in Germany.

Thus, the introduction of the seasonal workers’ programme, in the agricultural sector, in particular, shows how relatively effective legal alternatives to illegal migration and employment can be created. However, as we know from our experiences with the employment of “guest workers”, legal migration processes cannot be arbitrarily controlled by the state and humanitarian and social considerations can stand in the way of the strict administrative regulation of the presence of non-nationals.

If we assume that citizens of the nine new central and eastern European Member States of the European Union represent a relevant proportion of the illegal migrant population in Germany and that they can avail of freedom of movement for workers from 2011 at the latest, we should ask ourselves whether *de facto* legalization through the early granting of freedom of movement would make sense – as was carried out in Britain. Based on the available information, legalization does not have the clearly or generally negative effects that it is often alleged to have in the German debate.

While also fighting illegal migration, some states have been more flexible than Germany in creating access to social services and public facilities. Thus, for example, it is possible to guarantee access to health care by creating – as was done in Italy – a way in which illegal migrants can access the system without running the risk of discovery or by allowing emergency ambulances to treat ill people and pregnant women without asking for identification. If we do not wish to give the control of illegal migration priority over the right of children to education, they should be allowed to attend school. Different societal interests, for example AIDS prevention, the reporting and prosecution of crimes, and

migration control, can be pursued by making distinctions between the tasks of different authorities and not involving all authorities consistently in migration control.

Overall, the effects of political interventions should be systematically analysed and the use and efficacy of resources carefully analysed.

Academia should not leave the acquisition of expertise in this area to such a high level to the politically and socially committed actors outside of the universities and research institutions and should become more actively involved in this area, both on the side of migration research and also in the area of poverty and labour market research. This would require the support of the institutions that finance research and also the cooperation of the authorities who deal with the issue. The extension of the empirical basis so that it reflects the different circumstances of migrants and their migration motives would appear to be a priority as would the implementation of studies on political intervention strategies and ways out of illegality. It would also be important to undertake more comparative international studies, including studies that involve the main countries of origin.

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Iniziativa e studi sulla multiethnicita, [www.ismu.org](http://www.ismu.org)

International Center for Migration Policy Development, [www.icmpd.org](http://www.icmpd.org)

Jörg Alt, [www.joerg-alt.de](http://www.joerg-alt.de)

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Österreichisches Forum für Migrationsstudien, [www.öfms.org](http://www.öfms.org)

## Research projects

The *Volkswagen* Foundation from Nov. 2001 to May 2005 funded a research project entitled “*Gender, Ethnizität, Identität. Die neue Dienstmädchenfrage im Zeitalter der Globalisierung*” (“Gender, Ethnicity, Identity. The New Maids in the Age of Globalization”) at the *Arbeitsstelle für Interkulturelle Pädagogik* (Working Group for Intercultural Education) at the *Westfälische Wilhelms-Universität Münster*. Participating academics: PD Dr Helma Lutz, Professor Marianne Krüger Potratz, Susanne Schwalgin; Duration: November 2001 to May 2005. More information available at: [www.uni-muenster.de/FGEI/](http://www.uni-muenster.de/FGEI/)

The European Forum for Migration Studies (efms) Bamberg is involved in an international project funded by the European Science Foundation entitled “Human smuggling and trafficking in migrants: types, origins and dynamics in a comparative and interdisciplinary perspective” (2002-2005). Participating academics: Professor Friedrich Heckmann, Matthias Neske, Stefan Rühl. More information available at: [www.uni-bamberg.de/~ba6ef3/home.html](http://www.uni-bamberg.de/~ba6ef3/home.html)

The *Interdisziplinäres Zentrum für Bildung und Kommunikation in Migrationsfragen* (Interdisciplinary Centre for Education and Communication on Migration Issues) of the University of Oldenburg was involved in a project on the implementation of migration policy and the reactions of migrants entitled: “Does Implementation Matter? Informal Administration Practices and Shifting Migrant Strategies in Four Member-States”, 2000-2003. Participating academics:

Dr. Dita Vogel, Norbert Cyrus. More information available at: [www.iue.it/RSCAS/Research/IAPASIS/Index.shtml](http://www.iue.it/RSCAS/Research/IAPASIS/Index.shtml).

A “Polish Migration Project” funded by the German Research Foundation (DFG) at the University of Leipzig has been studying Polish-German migration movements since April 2004. The cooperation partner is the Warsaw Institute of Social Studies. The aim of this Polish Migration Project – which is based on the American model of the Mexican Migration Project – is to fully record migration activity, including temporary and unregistered migrations, to test central hypotheses of migration theory and to contribute to improving the assessment of future migration. Participating academics: Professor Frank Kalter.

The *Kriminologische Zentralstelle*, a research institute for criminology in Wiesbaden, carried out a project on smuggler criminality on behalf of the Federal Ministry of Justice (1997-2004). The project examined judgements against smuggling offences passed by German courts in the period between January 1995 and December 1999. Participating academics: Dr Eric Minthe, Christian Steinbrenner. More information available at: [www.krimz.de](http://www.krimz.de)

A project being carried out by the Agricultural and Gardening Faculty of the Humboldt University Berlin in cooperation with the University of Torun concerns the situation of illegal Polish seasonal workers in Germany. The living and working conditions and backgrounds of the seasonal workers and their relationships with employers are being examined. Participating academics: Professor Friedhelm Streiffeler.