

# Immigration

Europeanisation/German Politics

# Outline

## Intro

- Recap

- Intro

## Asylum/Migration Policy

- Basics

- The Family Reunification Directive

- The Asylum Qualification Directive

- The Labour Migration Directive

## Summary

- Summary

- Your turn

## Last week: CFSP and Germany's role in Europe

- ▶ Germany still a 'good European'
- ▶ But (slightly) more assertive, less willing to pay and take a backseat
  - ▶ Generational change within elites
  - ▶ Public more eurosceptic
  - ▶ Cost and other consequences of unification
  - ▶ Eastern enlargement/changing structure of EU
- ▶ Germany not willing/able to play role of the hegemon in current crisis

## Today: Germany and European Migration/Asylum policies

- ▶ Like Italy, a late nation (1871? 1918?)
- ▶ No (recent) colonial past, so no multi-ethnic society
- ▶ Nation very problematic after 1945
- ▶ 'Immigration' based on language/ethnicity (GDR, SU, CEE)
- ▶ Labour migration from late 1950s framed as temporary
- ▶ Realities only acknowledged from 2000s on (if at all)
- ▶ General acceptance of dual citizenship for "foreigners" born in Germany *planned* for this parliament

## Migration and Europeanisation

- ▶ Migration hot potato in German politics
- ▶ Asylum/migration in pillar 3 (JHA)
- ▶ JHA the most interesting post-Maastricht domain
  - ▶ 'High Politics'
  - ▶ Intergovernmental and largely under radar
- ▶ (Partially) moved to pillar 1 post-Maastricht
- ▶ European influence on German policies?
- ▶ Or rather Germany shaping European rules according to its preferences?

## Menz 2011: Language and the illusion of analysis

- ▶ Like in piece on HEP, many fancy terms ...
- ▶ That denote rather basic ideas
- ▶ Which closely resemble each other
- ▶ Useful heuristic devices, but don't let them blind you
- ▶ Substantive findings quite interesting

## Advanced two-level games

- ▶ Theoretical approach which builds on Putnam's idea of two-level games in IR
- ▶ Policies shaped by actors
  - ▶ Politicians and parties
  - ▶ Interest groups
    - ▶ Business
    - ▶ Other interests (e.g. NGOs)

## Advanced two-level games

- ▶ Two levels (Putnam 1988)
  1. Domestic
    - ▶ Interest groups lobby government to adopt favourable policies
    - ▶ Politicians seek power by constructing coalitions among those groups
  2. International
    - ▶ National governments seek to maximize their own ability to satisfy domestic pressures
    - ▶ Minimizing the adverse consequences of foreign developments
- ▶ Updated for EU:
  - ▶ EU institutions
  - ▶ Concurrent games (levels/arenas)
  - ▶ 'First mover advantage'
  - ▶ 'Veto players, technocratic capture, advocacy coalitions'



## Three directives

- ▶ Directives bind members as to the desired *outcome*
- ▶ Must be transposed into national law to become effective
- ▶ May contain opt-outs, individual transition periods and guarantees
- ▶ Today, we'll look at three of them
  1. Family Reunification Directive
  2. Asylum Qualification Directive
  3. Labour Migration Directive

## Family reunification

- ▶ 'Single largest access channel for legal migrants'
- ▶ Wide variety of rules in place
- ▶ Germany, Austria and the Netherlands formed coalition to safeguard strict national rules
- ▶ NGOs divided in Germany, later formed coalition with Greens
- ▶ Employer associations not interested

## Author's view of the two-level game

Table 1: Two-Level Games and the Family Reunion Directive

	<i>German government</i>	<i>Austrian government</i>	<i>Dutch government</i>	<i>NGOs</i>
EU level	Seeks to secure maximum room for manoeuvre, especially regarding age of minors and spouses  Delays European regulation to secure maximum flexibility at the national level	Seeks to safeguard national status quo, especially health insurance and housing regulations and quota	Seeks to safeguard national status quo, especially age for spouses	Seeks to leave maximum age for minors high
National level	Seeks low age for minors at first  Scapegoats EU NGOs unsuccessful at building coalition with Green Party to secure higher age for minors	Seeks to safeguard national status quo, forced by legal challenge to make modifications  NGOs unsuccessful at building coalition		

Source: Authors' own data.

Source: Menz 2011

## What happened?

- ▶ First draft for directive by Commission in December 1999
- ▶ EP consulted, modifications ignored
- ▶ Modified Comm directive in 2002, adopted in 2003 by Council
- ▶ Legal action failed
- ▶ AT, DE, NL secured room for national exceptions . . .
- ▶ . . . to maximise their leeway in *national* negotiations
- ▶ Final version (to be implemented by 2005) v different from 1999 version
  - ▶ No right to reunification
  - ▶ Italy, Belgium, Denmark could retain liberal rules
  - ▶ Lobbying by NGOs not successful

## What happened?

- ▶ First draft for directive by Commission in December 1999
- ▶ EP consulted, modifications ignored
- ▶ Modified Comm directive in 2002, adopted in 2003 by Council
- ▶ Legal action failed
- ▶ AT, DE, NL secured room for national exceptions . . .
- ▶ . . . to maximise their leeway in *national* negotiations
- ▶ Final version (to be implemented by 2005) v different from 1999 version
  - ▶ No right to reunification
  - ▶ Italy, Belgium, Denmark could retain liberal rules
  - ▶ Lobbying by NGOs not successful
- ▶ Everyone could blame 'Europe'!

## Asylum qualification

- ▶ Who may apply for protection?
- ▶ What does protection imply?
- ▶ Basics covered by Geneva, national constitutions and laws, agreements w UN
- ▶ Directive tries to unify standards

## Author's view of the two-level game

	<i>German government</i>	<i>NGOs</i>	<i>Employers</i>
EU level	<p>Seeks to secure restrictive stance regarding labour market access for beneficiaries of subsidiary forms of protection</p> <p>Seeks to delay European regulation regarding the acceptance of persecution by non-state actors to secure maximum flexibility at the national level</p>		
National level	<p>Seeks to secure maintenance of status quo at first; later accepts lobbying demands by NGOs/Greens and employers</p>	<p>Successful at building coalition with Green Party to secure recognition of persecution by non-state actors</p>	<p>Ultimately successful at lobbying against labour market access rights for political refugees</p>

Source: Menz 2011

## What happened?

- ▶ First Commission draft September 12, 2001
- ▶ EP consulted and ignored in October 2002
- ▶ Council meetings/negotiations from October 2002-2004
- ▶ Three major conflicts in council
  1. Exclusion/revocation (burden of proof)
  2. 'Subsidiary protection'
    - ▶ Welfare
    - ▶ National differences
  3. Germany
    - ▶ Labour market access for subsidiary protected
    - ▶ Prosecution by non-state actors
- ▶ Outcome
  - ▶ Minimum standards for the qualification of either non-EU citizens or stateless persons
  - ▶ Does not venture much beyond the status quo
  - ▶ Much more restrictive than first draft



# Labour migration

- ▶ Western Europe: generally restrictive immigration regimes
- ▶ Mostly low-skill immigration
- ▶ National differences
- ▶ But
  - ▶ Single European Labour market
  - ▶ Demographic change ↔ common European strategy for growth and employment
- ▶ Commission tried to open market for outsiders

## Author's view of the two-level game

Table 3: Two-Level Games and the Labour Migration Directive

	<i>German government</i>	<i>Austrian government</i>	<i>French government</i>	<i>Italian government</i>
EU level	Seeks to block European regulation and to secure maximum flexibility at the national level Employers seek sectoral, not universal, directive	Blocks EU regulation and supports Italian initiative	Blocks EU regulation	Attempts to upload quid pro quo quota system as basis for EU directive
National level	Seeks to secure maintenance of status quo; consideration of national highly skilled migration scheme Employers seek to retain decision-making over labour migration at the national level	Employers: identical to position of German employers	Seeks to maintain status quo Employers: internal division with no clear position	

Source: Menz 2011

## What happened?

- ▶ First draft 2000: Common criteria, common procedures
- ▶ Protracted debates, major players in Council not favourable
- ▶ Commission retracted proposal in March 2003
- ▶ 'Informal' debates but no enthusiasm
- ▶ New papers/proposals by Commission 2003-5
- ▶ New strategy:
  - ▶ Narrow, sector-specific proposals
  - ▶ By and large, member states regulate
- ▶ Directive 2009/50/EC ('Blue Card' for 'highly qualified employment')
  - ▶ To be implemented by 2011 (DE: 2012!)
  - ▶ Access regulated by factor of *national* average wages
  - ▶ Freedom of residence restricted

# Summary

- ▶ Migration one of the most contested issues in WE/German politics
- ▶ Partly Europeanised
- ▶ Coalition of particularly restrictive countries not affected by Europeanisation
- ▶ Rather used Europeanisation to safeguard its positions (IG)

## Class questions

In teams of 4-5 students, discuss the following questions:

1. What is the text's major point? Do you think the evidence is convincing?
2. In the future, will Germany become subject to a top-down Europeanisation of immigration policy?