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

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

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

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

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

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?