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GERMANY AND THE UNITED STATES:SEARCHING FOR 21ST CENTURY MIGRATION POLICIES

By Philip L. Martin



Abstract

As immigration and integration become subject to heightened public debate and policy attention, Germany and the United States must rethink the policy process in order to promote policy consistency and awareness of its international repercussions. Recent German and U.S. debates and policy changes point to the need for agencies to monitor developments and suggest policy options, and administrative structures that permit some flexibility in administering immigration and integration policies.

Immigration and integration were second only to unemployment among domestic issues contested in the 1998 German federal elections, won in September 1998 by a SPD-Green coalition. One of the new government's first policy proposals was dual nationality for resident foreigners wishing to become naturalized Germans. If implemented, Germany would have switched from being one of the most restrictive to becoming one of the most liberal countries in this regard, with Turks and Yugoslavs routinely retaining their original nationalities on becoming naturalized Germans. The opposition CDU-CSU bitterly opposed this proposal, arguing that it would increase immigration and lead to divided loyalties, and succeeded in forcing the SPD-Green government to adopt the "option model" of dual nationality: persons born in Germany would be considered both German and foreign nationals from birth, but they would lose German nationality if they did not give up the foreign nationality by age 23.

The dual nationality debate implicitly raises, but nonetheless may deflect attention away from fundamental immigration and integration policy issues. Labor market regulations that promote equality but impede the economic integration of immigrants should be reconsidered. A vision of the benefits of immigration for Germany should be articulated. This paper:

- summarizes Germany's postwar migration history,
- reviews the major proposals for changes in Germany's immigration and integration policies before the 1998 elections,
- summarizes the SPD-Green proposal and its likely impacts,
- highlights unfinished immigration and integration issues, and
- compares Germany's immigration debates with similar U.S. debates.

A more extensive analysis of the past German migration developments is available in: Martin, Philip L. 1998. *Germany: Reluctant Land of Immigration*. Washington, DC: American Institute for Contemporary German Studies. September. <http://www.aicgs.org>

Guest Workers

Germany was primarily a country of emigration until the 1950s. The Federal Republic of Germany was founded in 1949, amidst massive unemployment due in part to the need to absorb millions of ethnic and East Germans while recovering from World War II. Germany recovered faster than southern European countries, and when labor shortages appeared in 1955 in German agriculture, a bilateral labor recruitment agreement was signed with Italy, permitting German farmers to hire Italian migrant workers to harvest their crops. But the real need for labor was in German factories producing cars, machine tools, steel, and consumer durables for booming domestic and export markets, on German construction sites, and in German mines. After the Berlin Wall stopped east-west migration in 1961, Germany signed bilateral labor recruitment agreements with seven more southern European and North African countries.¹

Guest workers poured into Germany, especially after Germany recovered from the 1996–67 recession. On some days, 500 to 1000 migrant workers arrived by train or plane, increasing the number of foreign workers in the German labor force from one million in 1968 to a peak 2.6 million in 1973, when 12 percent of Germany's workers were foreigners. Foreign worker policy was a meant to be a rotation policy: the assumption was that foreign workers would respond to the labor market, arriving when unemployment was low and jobs were vacant, and departing when unemployment rose. As the last hired and first fired, foreign workers could play a buffer role for the German economy, preventing excess inflation in booms and reducing unemployment in recessions.

In reality, foreign workers were probationary immigrants, initially given one year work and residence permits, but allowed to renew them if their German employers said the migrants were still needed. With each renewal, the foreign worker got more rights, so that, for example, after one year's employment and proof of satisfactory income and housing arrangements, the foreigner could have his family join him. After five years of work and residence, migrants had permanent residence rights, and after 15 years residence, foreigners could become naturalized Germans.

When oil prices jumped in 1973, leading to recession and rising unemployment, many foreign workers had already won permanent residence rights, and some had already brought their families to Germany. On November 23, 1973, German employers were prohibited from recruiting new foreign workers from outside the European Community (now EU), but unemployed migrants were not forced to leave Germany, and settled migrants could continue to unify their families. Many did so, rather than return to countries that were also in recession.

Foreigners became a political issue in the early 1980s, when several fringe parties campaigned on “foreigners out” slogans. With the number of foreigners approaching five million in a population of 62 million, the 1982 election was won by the CDU-CSU-FDP government (the coalition defeated in 1998 elections) in part on the grounds that a conservative government would “do something” about immigration. The CDU-CSU-FDP government launched a departure bonus program in 1983–84, offering refunds of social security contributions to migrants who gave up permanent residence rights. This proved to be only a short-term solution: the number of foreigners dropped slightly, but soon rebounded to five million.

By 1989, Germany had 4.8 million foreign residents (see Figure 1), and most were **not** in the labor force, a result not expected under the rotation principle that the only foreigners in Germany would be filling vacant jobs. There were numerous studies of migrants and their children, and they generally agreed that:

- The guest workers recruited to work in Germany, the first generation, were relatively well integrated in the manufacturing and other jobs that brought them to Germany, but faced bleak re-employment prospects if they were displaced as these industries restructured in the face of globalization.
- Guest worker children, the second and third generations, grew up as foreigners in Germany, and were often caught between parents who hoped to return to their countries of origin, versus the children's to develop German language and work skills required to succeed in Germany.
- There was considerable variance within and between the various nationalities, with the one-fourth of the foreigners from other EU countries, such as Austrians and Dutch, so well integrated they were largely invisible. Against this, children of fundamentalist Turks

¹ The eight recruitment countries were Greece, Italy, Morocco, Portugal, Spain, Tunisia, Turkey, and Yugoslavia.

who did not finish secondary school were sometimes considered “time bombs” who would be at best difficult to integrate into German society, and at worst the source of unrest. Turks are about one third of the foreigners in Germany.

This 1989 perspective still describes the dominant outlook in 1999. Optimists stress the narrowing of the gap between foreign and German youth in education and preparation for the German labor market; pessimists point to the fact that 30 to 40 percent of foreign youth do not finish secondary school, risking the development of an ethnic underclass.

However, there have been other immigration and integration developments since 1989 that pushed the unfinished integration of guest workers and their children into the background. The Berlin wall fell in 1989, Communism collapsed, and a new wave of migrants began arriving in Germany, including asylum seekers, ethnic Germans, “new guest workers,” and workers from other EU nations attracted by high-wage jobs in the German construction industry.

Each of these newcomer groups generated debate and eventually policy changes. For example, Article 16 of Germany's 1949 Basic Law is one of the world's most liberal asylum provisions, asserting that “Persons persecuted for political reasons shall enjoy the right of asylum.” This means that foreigners who apply for asylum in Germany have the right to publicly provided accommodations and support until the German government proves that the individual does not need asylum in Germany (over 90 percent of the applications are rejected). The review process in the early 1990s took several years, and some German states permitted asylum applicants to work while their applications were being reviewed.

Hundreds of thousands of foreigners applied for asylum—in 1992, some 438,000, an average 1,200 a day (see Figure 2). After application, foreigners were allocated to cities throughout Germany and housed at the expense of local governments—a recipe for anti-immigrant attacks that swept the country. After a contentious debate between the major political parties—the CDU-CSU wanted to simply remove Article 16 from the Basic Law, while the SPD and Greens wanted to preserve Article 16 and use the asylum crisis to make fundamental changes to Germany's immigration and integration policies— a compromise was reached. Article 16 was retained— individuals still have the

right to apply for asylum—but a new provision bars asylum applications from persons:

1. from safe countries or
2. from persons who pass through safe countries en route to Germany.

The number of asylum applications has stabilized at about 100,000 a year; 99,000 foreigners applied in 1998.

The German government implemented a series of incremental reforms to deal with other newcomer groups:

- With little debate, Germany limited to 220,000 a year the number of ethnic Germans who could move to Germany, restricted the right to immigrate to those who had suffered abroad because they were German (primarily the descendants of those who had emigrated to the ex-USSR) and imposed language tests and other barriers that made it more difficult for ethnic Germans to move to Germany. About 103,000 ethnic Germans arrived in 1998, down from 130,000 in 1997.
- New guest worker programs were introduced to make explicit that foreign workers were nonimmigrants, not probationary immigrants. Under the new guest worker programs, working in Germany gives a foreigner no right or priority to settle as an immigrant, just as in the United States. To prevent EU nationals such as the Irish and Portuguese from entering Germany and going to work on German construction sites at sub-union wages, Germany has since January 1997 required that those EU nationals with rights to freedom of movement be paid the local minimum wage of at least DM17 an hour in the former West Germany and DM16 in the East.
- Germany greatly expanded its expenditures on border and interior controls, increasing to 30,000 the number of Border Patrol agents (the United States has about 10,000), in 1998 giving those agents authority to check papers in airports and train stations, and providing funds to Poland and the Czech Republic so that they could step up patrols against illegal migration..
- The 350,000 Bosnians in Germany were a special case. Most arrived between 1992 and 1994, and were given a “tolerated” or Temporary Protected Status. After the Dayton peace agreement was signed in 1995, the 16 German states that are responsible for

removing foreigners used a combination of carrots and sticks in a remarkably successful campaign to persuade most Bosnians to return home—over 80 percent had returned by January 1999.

Pre-Election Reforms and Proposals

There were 7.3 million foreigners in Germany in 1998, and an additional 3.4 million ethnic Germans, persons born outside Germany who are considered German citizens upon their arrival. Since many ethnic Germans speak Russian rather than German, many Germans think of them as foreigners despite their German passports; some Germans feel overwhelmed by the fact that 12 percent of residents are either foreigners or Germans with limited German. In the United States, by comparison, about 10 percent of residents are foreign born, and 13 percent reported speaking a language other than English at home in the 1990 Census.

Quotas on ethnic Germans, new guest worker programs, and stepped up controls did not deal with the central immigration and integration dilemma in Germany: what to do about continued family unification and the integration of resident foreigners. The Green-Bündnis 90 Party in 1997 proposed a link between the quota for ethnic Germans and immigration. Under their plan, the number of immigrants admitted each year would equal the number of ethnic Germans who arrived, or a maximum 220,000 a year. Integration would be expedited by permitting dual nationality: foreigners could become naturalized Germans without giving up their Turkish or Yugoslav citizenship, and babies born in Germany to at least one legal foreign parent would automatically be considered German citizens.

The SPD in 1997 announced “principles” for reforming immigration and integration policies, with the emphasis on providing language classes to foreigners so that they could more easily learn German. The FDP in 1997 proposed an immigration system with annual quotas determined by *inter alia*, German labor market conditions, and inducements for foreigners to learn German, such as more secure work and residence permits.² The FDP

also proposed simplified naturalization procedures, including a dual nationality “option” for foreigners born in Germany of legally resident parents, e.g. at birth, children of foreigners would be considered German and Turkish nationals—at age 18, a youth would have to choose one of these nationalities.

The CDU-CSU consistently opposed changing immigration and integration policies, preferring to stick to the federal government's 1981 declaration that Germany is not a country of immigration, and that three principles should guide migration policy:

- non-EU immigration should be reduced as much as possible,
- the voluntary return of settled foreigners should be promoted, and
- those foreigners who wish to remain in Germany should be integrated.

In 1997–98, the CDU-CSU blocked all proposed changes to immigration policy.

Dual Nationality in 1998–99

Most of the foreigners in Germany are nationals of non-EU nations who have lived in Germany for a decade or more. About 75 percent are from non-EU nations, including two million or 28 percent Turks. Half of the foreigners have lived in Germany for 10 or more years, and 1.4 million, or one in five foreigners, was born in Germany.³ Foreigners are concentrated in cities in the former West Germany, and consistently 29 percent of the residents of Frankfurt/Main, 24 percent of Stuttgart's residents, 23 percent of Munich's residents, and 15 to 20 percent each of the residents of Cologne, Dusseldorf, and Hamburg.

Most foreigners do not become naturalized Germans. Germany has two types of naturalization: discretionary naturalization and naturalization by right, which applies primarily to ethnic Germans who obtain German citizenship upon their arrival in Germany. In 1997, about 83,000 foreigners obtained discretionary naturalizations, including 35,000 Turks and 30,000 others who were allowed to become dual nationals because, for example, Iran would not release them from citizenship.⁴ Since 1967, about 650,000 foreigners became naturalized Germans (excluding ethnic Germans who are considered German when they arrive in Germany), and 550,000 of these naturalized Germans were still

² The major political parties agreed that, if the FDP quota system were to be approved, the immigration quota would be zero because the unemployment rate in 1997–98 was over 10 percent.

³ About 100,000 babies are born to foreigners each year in Germany, increasing the foreign population by 100,000 a year.

⁴ An estimated 220,000 of Germany's 2.2 million Turks were naturalized German citizens in 1997.

in Germany in 1997—once a foreigner naturalizes, she falls out of the foreigner data. However, since immigration is about 200,000 a year, the foreign share of the German population is rising (see Table).

A rising share of foreigners is probably not sustainable. If Germany were to receive a net 190,000 additional foreigners each year, roughly current levels of immigration, if German and foreign women continue to have very low fertility, and if naturalization rates remain at current levels, the number of foreigners in Germany is projected to climb to 13 million or 17 percent among 75 million projected German residents in 2030. In major German cities such as Frankfurt and Stuttgart, this means that half of the residents would be foreigners within one generation.

The SPD-Green government believes that easier naturalization can reduce the percentage of foreigners and expedite integration. The first major proposal of the new government in October 1998 was to change Germany's 1913 *jus sanguinis* (of the blood) citizenship law to accept *jus soli* (of the soil) citizenship—children born in Germany to legal parents would be German citizens, and they could retain both German and e.g. Turkish nationality throughout their lifetimes. Adult foreigners would also be permitted to hold “two passports for life,” and could apply to naturalize after eight years residence, down from the current 15 years.

This dual nationality proposal was severely criticized by the CDU-CSU parties that had lost the September 1998 elections. They announced a petition drive against dual nationality, arguing that dual nationality:

1. gave foreigners more privileges than Germans because they could carry two passports and
2. that dual nationality would increase immigration and lead to divided loyalties.

The CDU-CSU petition drive was successful. By the date of a Hessian state election on 7 February 1999, about one million Germans had signed, including 500,000 or about one-eighth of the voters in Hesse. The SPD-Green state government in Hesse was voted out of office, and replaced by a CDU-FDP government; opposition to the federal government's dual nationality proposal was widely credited for the change. Defeated state Governor Hans Eichel (now federal finance minister) said: “The double citizenship law issue became so emotional that it mobilized the opposition.”

In March, 1999, the SPD-Green government accepted the FDP's “option” dual nationality

proposal. Under the latest SPD-Green proposal, children born of legal foreigner parents who were in Germany at least eight years would be considered both German and their parents' nationality at birth, and permitted to be dual nationals until age 23. At age 23, a youth born in Germany would have to give up the foreign nationality or automatically lose German nationality. Dual nationality for adults will not be routine, as it would have been in the first proposal, but naturalization is to be “administered flexibly,” so that e.g. an Afghani can become a naturalized German even if Afghanistan refuses to release her from Afghani citizenship. The SPD-Green government wants the new naturalization law to be approved before elections for the European Parliament on 13 June 1999.

Migration Policies for the 21st Century

What principles should guide the development of durable immigration and integration policies for the 21st century? The answers depend on three types of issues: a country's conception of immigration, socio-economic policies that affect immigration and integration, and the international considerations.

Is Immigration in the National Interest?

There are clear differences between Germany and the United States in national conceptions of immigration. Germany does not see itself as a country of immigration, and thus does not celebrate mass naturalization ceremonies on national holidays. Instead, integrating foreigners is usually considered a German “duty,” summarized as follows: Germany invited the guest workers in, they helped to create the “economic wonder,” and now Germany must integrate their children. If integration fails, this argument runs, Germany will have created an underclass and more problems.

The United States, by contrast, celebrates *e pluribus unum*, from many, one. Immigration is an integral part of U.S. history and culture, is believed by most Americans to be mutually beneficial for the immigrants as well as for Americans, and is thus considered to be in the national interest.

These differences are clear in the statements of national leaders:

- SPD Interior Minister Otto Schily, in December 1998: Germany has “reached the limits, the point where we have to say we

cannot bear any more. The majority of Germans agree with me: Zero immigration for now. The burden has become too great. I would not even dare publish the costs that stem from immigration. The Greens say we should take 200,000 more immigrants a year. But I say to them, show me the village, the town, the region that would take them. There are no such places.”

- President Clinton in June 1998: “I believe new immigrants are good for America. They are revitalizing our cities. They are building our new economy. They are strengthening our ties to the global economy, just as earlier waves of immigrants settled the new frontier and powered the Industrial Revolution. They are energizing our culture and broadening our vision of the world. They are renewing our most basic values and reminding us all of what it truly means to be an American. [Americans] share a responsibility to welcome new immigrants, to ensure that they strengthen our nation, to give them their chance at the brass ring.”

Many Germans argue that, despite the “costs” of immigration, Germany will have to accept large numbers of immigrants to sustain its social welfare state as the population ages. Demographers note that very high levels of immigration would be required if unskilled immigrants were used to stabilize pension and health care systems: the same result could be accomplished by having current workers work longer, so that they pay in longer and draw benefits for fewer years. However, it is very hard to generate widespread public support for immigration when leading policy makers discuss immigration only in terms of costs.

Socio-economic Policies and Integration

Globalization as well as demographic and economic changes have forced a restructuring of some of the major institutions developed over the past half century, including the expectation that many workers would have lifetime jobs with one large company. Many Germans continue to expect such lifetime careers, and they receive an extensive and long term assistance while waiting for “good jobs” to become available.

There are too few such good jobs: unemployment has averaged 10 to 11 percent in the past several years, with the unemployment rate for foreigners, who are often near the back of the

queue, twice the rate for Germans. Germany is discussing creating more good jobs by encouraging earlier retirement and restricting overtime. However, creating good jobs in this manner will not move foreigners forward in the queue; many will have to wait until there is almost full employment until they find good jobs.

The alternative is to de-regulate the labor market so that employers create more jobs, even though some of the new jobs created may pay lower wages, offer few benefits, and not be career options.⁵ In the more flexible U.S. labor market, unskilled immigrants have little trouble finding jobs or beginning small businesses, but they may find it hard to earn sufficient wages to achieve above poverty level incomes.

This German-United States comparison highlights an important trade off between jobs and equality. The German labor market is like a lottery that offers good jobs that often cannot be obtained by foreigners and their children. The U.S. labor market, by contrast, offers plenty of easily accessible jobs, but many of them do not pay a “living wage” or offer health and other benefits. Jobs and decent wages and benefits may be competing goods, with Germany giving higher priority to decent wages and benefits, and the United States giving higher priority to easily accessible jobs.

These differing priorities between jobs and wages seem to reflect what Germany and the United States value and fear in immigrants. Germany provides extensive public benefits for asylum seekers and foreigners in need of temporary protection, but is reluctant to grant them access to the labor market; “good jobs” are reserved for Germans and long-term resident foreigners. Thus, Germany protects its labor market from “excessive competition,” and the expense is borne by the welfare system. As one result, foreigners are more often viewed as welfare burdens than productive workers.

The easy availability of jobs in the United States has the opposite effect of quickly integrating immigrants into the labor market, and perhaps increasing acceptance of them. Newly arrived immigrant farm workers toiling the in fields fulfill the perception that many foreigners come to the United States to work. Americans seem comfortable with the idea of carefully screening out

⁵ According to the Institut der deutschen Wirtschaft, if the German wage distribution were similar to the U.S. wage distribution, Germany would have three million more jobs, including 800,000 for unskilled workers.

ineligible foreigners at welfare offices, but not with implementing effective labor market controls. Americans are also far more comfortable with the belief that a first job need not be a lifetime career, so that an American or immigrant who fills a seasonal job that offers low wages and few benefits will not forever be a janitor or restaurant worker.

An example of the differences between the German and U.S. approaches can be seen in the case of Bosnians offered Temporary Protected Status (TPS) in Germany and Central Americans offered TPS in the United States. Most Bosnians were not in the labor market, so that state and local governments saved tax monies by encouraging Bosnians to leave, and local employers did not lament the loss of experienced and trained workers. In the United States, by contrast, there are few immediate tax savings from the return of Central Americans, and some U.S. employers would like to keep experienced and trained Central American workers.

International Considerations

Germany and the United States have followed different paths to integrating their poorer neighbors, the source of many immigrants. The German/EU approach links economic integration and free migration—EU nationals have the right to move to any other EU member nation and look for jobs on an equal basis with other residents. Thus, the EU attempts to ensure that there is likely to be relatively little migration before a country is accepted for EU membership and its citizens receive full freedom of movement rights. There is usually a lag of seven years between full EU membership and full freedom of movement rights, and during this time, regional aid and investment can create enough opportunities at home so that when e.g. Spanish or Portuguese or Greek workers obtain full freedom of movement rights, few migrate.

The U.S. approach, as exemplified in the North American Free Trade Agreement or the Caribbean Basin Initiative, emphasizes trade, not aid. The United States is not seeking full economic and political integration with Mexico or with Caribbean nations, only free trade and investment. The U.S. model of integration permits simultaneous reduced barriers to trade and stepped up efforts to prevent unauthorized migration, as on the United States-Mexican border.

As in the case of the integration of foreign youth in Germany, the result can be read as a glass half full or half empty. NAFTA created many more

opportunities for cooperation with Mexico on many fronts, including preventing third country nationals from entering the United States via Mexico, joint action to reduce border area crime, and periodic national, regional, and local meetings to discuss migration issues. The half empty perspective emphasizes that Mexico makes few efforts to prevent its citizens from massing on the border for the sole purpose of illegally entering the United States.



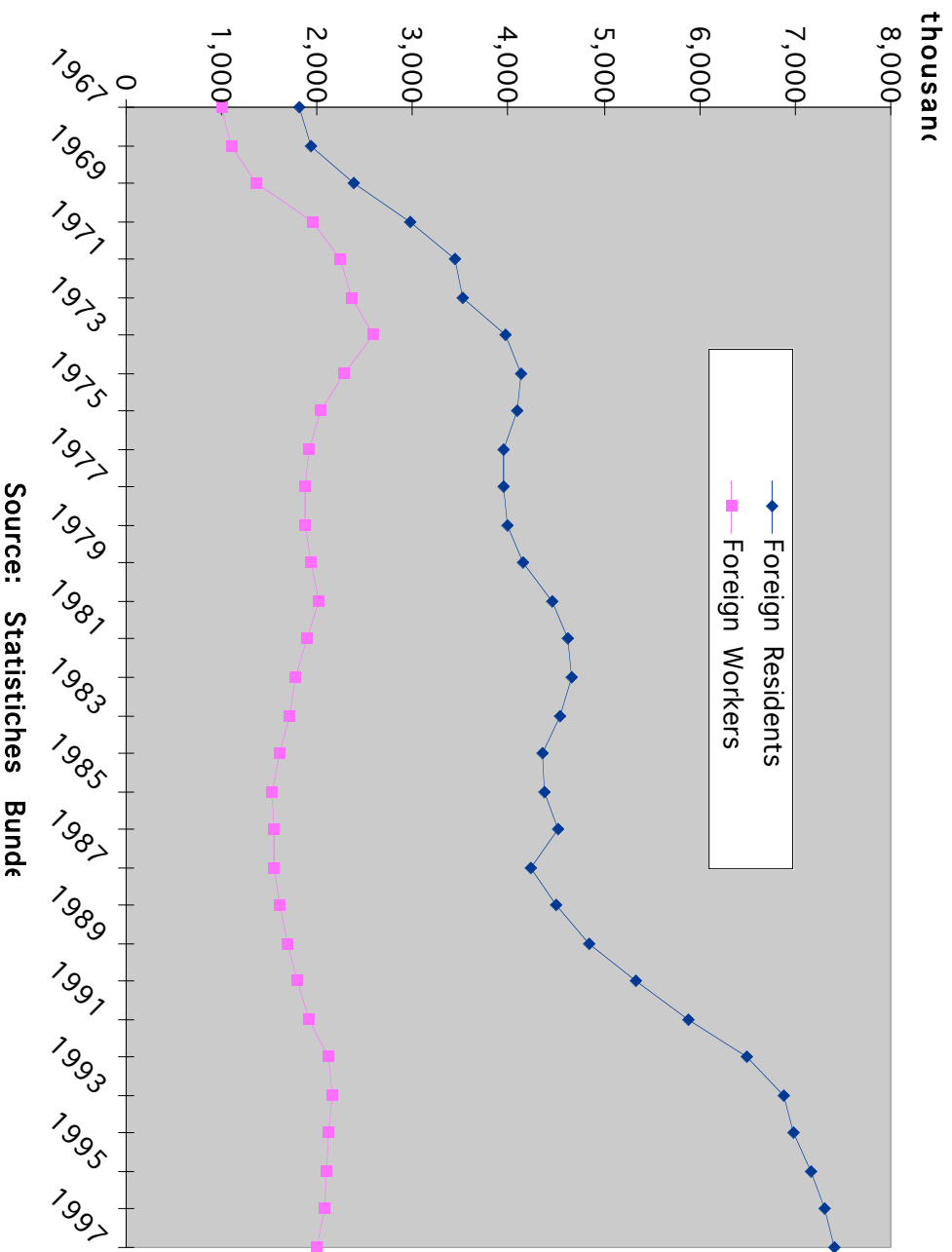
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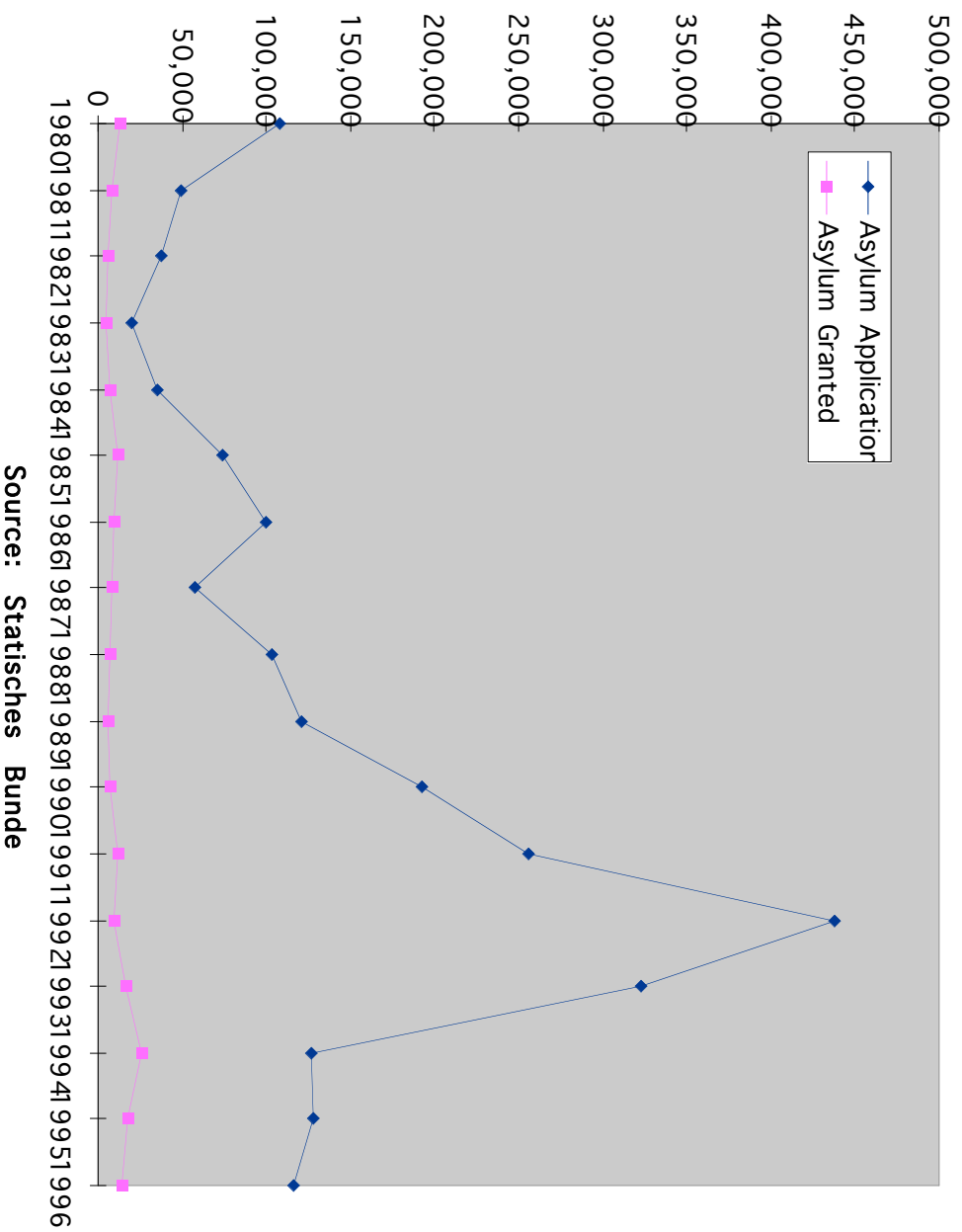


**Figure 1: Foreigners and Foreign Workers in German
1967-1997**



Source: Statistisches Bundesamt

Figure 2: Asylum Applications and Acceptance
1980-96



Source: Statistisches Bunde

Naturalizations of Foreigners (excludes ethnic Germans): 1974–97

Foreign							
Year	Residents	Workers					
(thousands)							
1967	1.807	991					
1968	1.924	1.090					
1969	2.381	1.372					
1970	2.977	1.949					
1971	3.439	2.241					
1972	3.527	2.352					
1973	3.966	2.595					
			Year Naturalizations				
1974	4.127	2.287	1974			12,488	
1975	4.090	2.039	1975			10,727	
1976	3.948	1.921	1976			13,134	
1977	3.948	1.869	1977			13,535	
1978	3.981	1.864	1978			14,075	
1979	4.147	1.937	1979			15,172	
			Asylum				
			Year Applications Granted				
			s				
1980	4.453	2.013	1980	107,818	12,783	1980	14,969
1981	4.630	1.900	1981	49,391	8,531	1981	13,643
1982	4.667	1.771	1982	37,423	6,209	1982	13,266
1983	4.535	1.709	1983	19,737	5,032	1983	14,334
1984	4.364	1.608	1984	35,278	6,566	1984	14,695
1985	4.379	1.536	1985	73,832	11,224	1985	13,894
1986	4.513	1.545	1986	99,650	8,853	1986	14,030
1987	4.241	1.557	1987	57,379	8,231	1987	14,029
1988	4.489	1.607	1988	103,076	7,621	1988	16,660
1989	4.846	1.684	1989	121,318	5,991	1989	17,742
1990	5.343	1.793	1990	193,063	6,518	1990	20,237
1991	5.882	1.909	1991	256,112	11,597	1991	27,295
1992	6.496	2.120	1992	438,191	9,189	1992	37,042
1993	6.878	2.150	1993	322,599	16,396	1993	74,058
1994	6.991	2.110	1994	127,213	25,578	1994	61,700
1995	7.174	2.094	1995	127,937	18,100	1995	71,981
1996	7.314	2.078	1996	116,367	14,389	1996	86,356
1997	7.400	2.002				1997	82,913