

Assessment and recommendations

Germany's labour migration policy is increasingly open, but entries remain low

Since 2005, German policy for admission of foreign workers has gradually lowered obstacles to entry for highly skilled labour and at present there are few legal barriers to recruitment for employment in highly skilled occupations. The framework for labour migration in Germany – which still presents itself in essence as a list of specific exemptions to a recruitment ban – now grants admission to most workers with a job offer in a university-level occupation. Recruitment of those with post-secondary occupations below the university level is also possible within the existing system, although with far more restrictions. The rejection rate for applications by highly skilled workers is low in absolute terms and in international comparison.

In spite of this, Germany's labour migration flows – that is, migration for employment from outside of the EU/EFTA – remain low in absolute terms. The number amounts to only about 25 000 annually, or 0.2% of the population, which is low compared with labour migration in most other OECD countries. While the flows increased in recent years, much of this increase is related to the expansion of international student programmes and the consequent number of students staying on, rather than direct recruits from abroad. Migration for employment through free-mobility flows from the enlarged European Union, whose number has been growing in recent years, appears to have partly compensated for labour migration from non-EU countries. Yet, both of these channels for migration for employment taken together still comprise relatively lower employment-related flows than in many other OECD countries.

Policy has been driven by concern over looming changes in the size and composition of the working-age population, although these are still not critical ...

The working-age population of Germany is expected to decline. The shrinking margin for further increasing labour force participation by disadvantaged groups – older workers, women, and resident migrants and their offspring – has gradually shifted the attention of German policy makers to the possibility of meeting some labour and skill shortages through labour migration from outside the European Union, although preference is still given to intra-EU migration. Widespread shortages are not currently reported, and most of the attention regarding recruitment has focused so far on highly skilled migration for specific occupations.

... and businesses, especially small- and medium-sized enterprises, have not taken up existing recruitment opportunities

While business groups have pushed for a more pro-active migration policy, businesses have not yet changed their recruitment practices in response to reported shortages, despite the relatively open system for recruiting highly skilled workers. This is especially true for small and medium-sized enterprises, for which the system appears complex, restrictive and inaccessible, and for which foreign workers appear difficult to integrate into the workforce, due to perceived poor German-language skills and inadequate training. Small- and medium-sized enterprises also do not have access to the intercorporate transfer channel open to multinational enterprises through which, for example, more than half of the new foreign engineers entered in 2010.

A more accessible and transparent system, better information and co-operation in accompanying small- and medium-sized enterprises in internationalising their search for staff in shortages should thus be a priority.

Administrative procedures are complex and leave room for improvement

Although the system is an open one, it is currently confusing for employers and potential migrants alike, appearing essentially as a range of clauses covering exceptions to a recruitment ban. The standard visa form used for applications from abroad does not indicate the exception requested by the applicant, nor do the application forms used by foreigners offices, which also vary greatly from one locality to another. As a result, employers

and candidates for labour migration are unsure of the grounds under which their work permit application will be considered.

In part, this is due to the federal nature of the country which limits centralisation of processing. A recent centralisation of certain procedures has brought some advantages such as more uniform treatment of discretionary cases, but also reduced the opportunity for local foreigners offices and employment services to account for specific local labour market and economic conditions in adjudicating applications.

The labour market test rarely leads to rejection, especially for skilled applicants, and is unfairly blamed for making the system restrictive. It does lengthen processing time somewhat, but is generally short for high-skilled occupations. There is no pre-sponsorship guarantee or other means to accelerate the process, such as prior job listings with the public employment service, or proof of attempts to fill the position, although the employer can now accelerate the process by informing the employment services in parallel with the candidate's proceedings at the foreigners office. In addition, since August 2012, unless the employment service rejects the application within two weeks, approval is granted by default. In any case, the labour market test has gradually become less of an obstacle, as growing numbers of applicants are exempted.

Experienced human resource departments and immigration firms, the latter relatively undeveloped in Germany, know how to accompany applications with cover letters explaining the eligible category, to send documentation simultaneously to foreigners offices and the employment agency, and to develop contacts with staff. For employers embarking on the procedure for the first time, the process is more arduous. Applications are filed on paper and incomplete applications are not unusual. Employer associations generally provide little assistance to their members in this respect, and while private relocation and law firms are available on the market, this increases the cost of recruitment. SMEs with occasional needs, or first-time users, have been particularly penalised by the inaccessibility and lack of transparency.

There have been some attempts to speed up the process, and it would be a further positive step to institutionalise the indication of the Employment Ordinance (*BeschV*) category under which the application is requested. Clearer indications on the proper documentation for the desired permit channel would also help improve accessibility for inexperienced applicants. In addition, a restructuring of the relevant Employment Ordinance (*BeschV*), by reducing the number of separate grounds for admission, would greatly enhance transparency. This would permit the underlying structure of the system to be changed from a recruitment ban with exceptions – which,

although no longer explicitly framed as such, is inherent in the current framework – to a system that is essentially open, although with certain clear restrictions and conditions.

Recent policy changes provide significant improvements, but may not radically change flows ...

The introduction of the EU Blue Card in August 2012 is likely to lead to a shift into this highly skilled category from other permit categories. The EU Blue Card itself, which provides more generous conditions for family reunification and renewal, may eclipse other exemptions from the recruitment ban which remain on the books. While it provides much better conditions than past German permit categories, many other European countries have established comparable criteria for their own EU Blue Cards, and the EU Blue Card alone may not make Germany more competitive as a destination for potential skilled labour migrants.

Along with the EU Blue Card, two further channels for labour migration have been opened. The first is the introduction of an extended (six months) visa for job search for candidates from abroad, allowing in-country status change to an eligible work permit category. The second is the opening of the labour market for persons with German vocational qualifications.

Some of these changes will have an immediate effect, namely on simplifying procedures. However, as employers remain sceptical of workers with limited German-language skills and, to a lesser extent, non-German qualifications, recent reforms are not likely to lead to a boom in recruitment of skilled workers from abroad.

... although they do lay the groundwork for a changing perception of German openness

Recent initiatives and policy changes aim rather at a long-term perspective, on repositioning Germany as a destination for skilled migration. Policy shifts such as the one occurring over the past few years take time to change perceptions, both by employers and by potential migrants who may not yet have Germany on the radar screen as an attractive and welcoming destination country. While information campaigns help raise awareness, it is practical experience of the system which will have the most profound effect. Demand plays a key role, as even the most efficient system cannot make a country attractive if its employers are not recruiting. However, Germany still seems to have some time to consolidate its system since at least globally, shortages do not yet appear to be pressing.

Skilled labour migration is increasingly driven by student migration ...

Study is one of the main gateways to labour migration in Germany. Graduates hold German credentials and – except if they were enrolled in English-speaking programmes – speak German, obviating two of the main factors behind the high level of “overqualification” of skilled immigrants in Germany and the observed resistance of employers to international recruitment. Negligible tuition fees, generous provisions for employment during studies and favourable conditions for both job search and subsequent status change make this an attractive pathway that overall provides more favourable conditions than virtually all other OECD countries. Indeed, a large and growing share of migration is through the student channel.

... and efforts should be made to maximize the benefits from student migration for the German labour market ...

Language is a determining, if not the most important, factor in employers’ willingness to recruit from abroad. The expansion of international programmes in German universities will best contribute to the skilled workforce if these programmes are in the German language; English-language programmes are less likely to prepare international students for employment in Germany. At the same time, however, it seems that English-speaking programmes are likely to attract more international students. It should be investigated if students in English-speaking programmes are less likely to stay on in Germany after their studies. If the language of the programme is not linked with the probability to stay, this would provide an argument for further enhancing English-speaking programmes. If, however, students in English-speaking programmes are less likely to stay on, higher tuition fees for international students in English-speaking programmes should be considered, given the current significant taxpayer subsidy per student. A number of other OECD countries have already explored such a policy.

... and more generally to attracting and informing international students

German universities are the gatekeeper for a large share of skilled migration to Germany. Yet, although international student enrolment is increasing, Germany’s market share in international tertiary education has declined since the mid-2000s. It remains, however, the fifth most important destination country in the OECD. Efforts should be made to further support German universities in attracting qualified students and in providing them with information prior to enrolment and, as graduation approaches, on the

possibility to stay in Germany. In parallel, language training for international students not speaking German should be stepped up.

The extension of the job search period for graduating students from 12 to 18 months is not likely to significantly change stay rates, as most international graduates find employment well before this time limit. More flexibility in the match between field of study and occupation, on the other hand, and more transparent and rapid treatment of requests, could make study and subsequent employment in Germany more attractive. The recent easing of employment restrictions during the job search period will also make it easier for students to take advantage of this job search permit.

A German-language feeder system abroad should be built up ...

The largest network of German-language training centres abroad, the Goethe Institutes, is stretched to the limit, with full enrolment in many countries. While the limited availability of German-language teachers is a constraint on expansion of German-language instruction abroad – through the Goethe Institutes and other providers – shifts towards more employment-oriented language training are also necessary. Currently, the Goethe Institutes do not have an explicit mandate to offer German-language courses for foreign nationals interested in migration to Germany. Opening up to employment-oriented language training should thus be accompanied by a broader mandate. In parallel, publicising post-study opportunities to remain in Germany may increase interest in study in Germany and in the German language.

... and German-language instruction for certain incoming migrants bolstered following arrival

The identification of shortage occupations justifies some public involvement and investment in supporting enterprises to find candidates and integrate them into their workforce. As one of the main obstacles is limited German-language skills, intensive and employment-oriented language courses could be foreseen for recruits into these occupations, with public participation in organisation and co-financing together with employers. These courses could be modelled following the example of other OECD countries.

Features from points-based systems could be introduced, although the introduction of a points system is not the issue ...

For more than a decade, policy debate has repeatedly raised the idea of selecting prospective immigrants to Germany through a points-based system, in order to make Germany more attractive to potential immigrants. A point system, however, is not a recruitment system *per se* but merely a selection tool to provide for the possibility of selecting immigrants on the basis of more than one characteristic, for example, educational attainment, age, and language. If several selection criteria are involved, one has to weight each of them, that is, assign different points to each criterion and define an overall point threshold to determine whether an applicant will be accepted. Indeed, several parameters – age and language skills, and specific regional demand – are absent, or only implicit, in the current selection criteria in Germany. Such criteria should be considered, notably in the context of a further opening towards medium-skilled occupations, although their introduction would not necessarily imply a fundamental change in the German system. For example, the requirement of a tertiary degree for obtaining an EU Blue Card could be waived for migrants who master German, provided that they meet the salary threshold. However, care should be taken that the introduction of such criteria does not jeopardise the objective of having a simple, clear and transparent framework for labour migration.

Given Germany's rapidly ageing society and the fact that the net lifetime fiscal contribution peaks after graduation, new pathways could also be considered to attract young graduates with a foreign tertiary degree. A number of countries have separate salary thresholds for young labour migrants. There may be an argument for applying the lower EU Blue Card threshold to persons below the age of 35, as starting salaries for skilled graduates, in particular in SMEs, are often below the EU Blue Card thresholds.

... and further enhancing supply-driven migration may not be advisable

Point systems traditionally have been implemented in countries such as Australia, Canada and New Zealand. Such systems may have a certain aura because of their association with migration regimes such as Canada's which are generally viewed as successful ones, but this is about the only sense in which they can contribute to a country's attractiveness.

All previous proposals for points-based systems in Germany included an element of supply-driven migration. Indeed, in the countries with

longstanding points systems, migration candidates were traditionally not required to have a job offer in order to be eligible for immigration (with their families). However, these countries are according more and more importance to job offers in their point systems, because outcomes for immigrants selected under the point system without a job offer have not been as good in those countries as used to be case in the past.

In Germany, the recent introduction of a six-month job-search visa represents a step towards testing supply-driven migration, with visa holders already enjoying official recognition of their qualifications and the possibility for in-country status change, while ensuring that for those who do not find an appropriately qualified job, their residence status expires. The new job-search visa certainly makes the process simpler and more transparent. In particular, employers can now be sure to be able to hire a migrant who has a job-search visa if the job pays a salary above the EU Blue Card threshold (EUR 46 400 per year, or EUR 36 192 in shortage occupations). The use of this visa should be closely monitored, to determine the success rates of candidates and their subsequent employment careers in Germany. Further development of the criteria, with language and age parameters, could be useful, if these characteristics determine the success of job seekers.

The system is rarely used for medium-skilled employment

A large part of shortages declared by firms are already in medium-skilled occupations, that is, in occupations requiring post-secondary but not tertiary education, such as nurses and trades. These are expected to persist if not to grow. However, the current labour migration system largely does not contemplate recruitment from outside the EU/EFTA to meet this demand. The only exceptions are for skilled care workers and, since August 2012, for persons with a German vocational qualification.

While the enlarged European Union might provide many medium-skilled workers in the short term, this is unlikely to be a solution in the long run, given demographic developments in the main origin countries and the likely gradual closing of the wage gap with the new EU member countries. Pathways for recruitment from outside the European Union should thus be considered, subject to language and qualification requirements. This would also provide incentives for the development of vocational training programmes abroad oriented towards shortage occupations in Germany.

The dual system should be promoted as a channel for medium-skill migration

The apprenticeship system in Germany continues to be a cornerstone of its productive model. The numbers of students in apprenticeship programmes has started to falter, and regional shortfalls have appeared, especially in eastern regions, and in certain service and trade occupations. In practice, international recruitment into the apprenticeship stream is currently quite limited, and largely only includes candidates from other EU countries.

Attracting vocational training students from abroad will be easier as they are now allowed to stay on for employment after finishing their training. Foreigners who go through the German apprenticeship system are allowed to apply for a work permit, subject to a labour market test. German businesses historically hire a large share of their apprentices, obviating the problem of matching. Germany is increasingly active in promoting German vocational education abroad, and could expand its co-operation efforts to support the language and preparatory training for recruiting young people from outside the European Union into the German apprenticeship system if needs persist. This could take the form of recognising and co-operating with existing vocational education and training institutions abroad, with final phases in German companies, or programmes for identifying candidates. The appropriate forms of co-operation could be identified and developed together with other actors in the vocational education and apprenticeship system. Current efforts to develop apprenticeship training for unemployed youth from other European countries for the German labour market, with pre- and post-arrival support, should be monitored and evaluated for eventual extension outside the European Union, if necessary and feasible.

The significant additional investment – namely in the form of preparatory language training – involved in recruitment of apprentices from abroad raises the issue of funding. While public funding may be less of an issue in the context of the European Union where this is seen as a form of intra-European solidarity, it is less clear for recruitment from outside the European union. For this group, at least part of the additional cost could be borne by employers, in exchange for somewhat longer apprenticeship periods by the international apprentices. Employees would likewise bear part of the costs, through a longer period of apprenticeship wages.

New temporary worker programmes merit consideration

While Germany has a long history in managing large bilateral agreements for labour migration, its large seasonal programme only targets EU countries and Croatia (a candidate country), although at some point

these workers will have to be sought further afield. Bilateral agreements could be negotiated with a broader number of origin countries outside of the traditional European basin.

Moving beyond the traditional basin of recruitment to new countries may bring new challenges. Bilateral agreements for other temporary programmes for low-skilled workers currently in place are with countries in Southeast Europe, where the conditions do not tend to leave large margins for abuse or for workers to accept criminally exploitative situations in order to repay recruitment debts. If temporary programmes extend to other countries, German salaries are exponentially larger than local opportunities, and the risk of rent-taking and violation of German Employment Law will be much higher.

Germany's current temporary low-skilled programmes are built around specific occupations and conditions, and cannot be extended easily to include other low-skilled employment. But low-skilled occupations are not immune from shortages, although programmes to fill them through recruitment from abroad require especially careful planning. While such programmes do not appear necessary at present, it would be short-sighted to categorically rule them out for the future, and successful programmes take years to develop and refine. If shortages start to appear, Germany could build on its experience within Europe and incorporate features of recent good practice in bilateral agreements which incorporate language training and pre- and post-entry support, as well as impose general education requirements on aspirant participants. In any case, any such programmes would have to be in conjunction with numerical limits to protect domestic employment in Germany.

With further opening, enforcement measures should be on the radar screen, both pre- and post- recruitment

Up to now, there is no evidence of abuse in the labour migration system. The experience of other OECD countries suggests that this can become an issue when labour migration flows are substantial or when criteria are loosened. Germany is currently changing processing mechanisms and opening new areas to labour migration. The Employment Agency has traditionally been the body responsible for evaluating the legitimacy of businesses and of contractual offers, and this represents a new task for the foreigners offices. The German authorities should be careful in monitoring the recruitment practices of employers and the employment conditions of foreign workers and apprentices, especially as the system moves towards less involvement of the Employment Agency in processing and approving individual applications. The system should contain alarms if salaries cluster

at the minimum thresholds, or there are jumps in requests for certain occupations or sectors.

Likewise, as vocational training opportunities expand for recruitment into lower-wage on-the-job training positions and apprenticeships, verification of compliance with a training regime will be important to prevent abuse of the training channel to bring in low-cost workers.

While information initiatives are increasing, the client service aspect of the process has not been modernised

The German authorities have created websites to promote Germany as a destination for skilled workers and for students and to provide information on legislation and permit categories. In the actual application, however, labour migrants and employers are generally subject to the same procedures, forms and facilities as any other migrant and face the same officials, rarely dedicated specifically to labour migrants. On-line application is limited, and many applications are filed on paper. As a result, there is no way to track applications in the inter-institutional process. Ensuring that some staff members in foreigners offices are specialised in handling labour migration applications, and improved appointment and issuance protocols, would help ameliorate the negative perceptions of the system and its functioning. Permit fees are low currently and could be increased. The money thus raised should be invested in development of the processing infrastructure, in order to further accelerate processing time and better support enterprises in the process.

The current statistical infrastructure is inadequate for monitoring labour migration and needs improvement

The permit system in place makes it difficult to interpret historical permit data and identify past inflows of skilled workers, as the different permit grounds and ordinances do not all correspond to occupational categories, recruitment channels or durations of stay. Major questions regarding determinants of stay and pathways are currently difficult or impossible to answer. Occupation data are available only for applications reviewed by the Employment Agency, and contractual data (salary, etc.) are not kept, nor are employer characteristics and subsequent stay. The nature of labour migration to Germany is thus difficult to analyse, and the evolution of flows in response to changing policy and economic conditions cannot be easily tracked.

The Central Foreigners Registry should also receive more support in monitoring the characteristics of labour migrants, including their

occupations and the duration of their stay, and the characteristics of recruiting firms, including region, sector and size. Such evaluations will be essential to identify malfunctioning of selection criteria, to measure the impact of the current and upcoming reforms, and to monitor how the German system responds to the shortages which are expected down the road.



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