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The Integration of Refugees into the Labour Market
– The German Experience –

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I. Statistical data

It is common knowledge that Germany in particular has been affected by the wave of refugees, due to the unexpectedly high number persons concerned. 890,000 asylum seekers came to Germany in the year 2015, followed by another 280,000 in 2016. In order to gain an impression of the development over a longer period of time it should be noted that between 1953 and 2015 4.6 million asylum applications were submitted, with just 0.9 million being submitted during the period 1953 to 1989, in other words 20 percent of the total number. There is no need to stress the fact that this rapid rise in asylum seekers obviously entails an enormous potential for problems. As my paper deals solely with the problem of integration in the German labour market, it should be mentioned that in December 2016 425,000 persons were officially registered in the context of forced migration with the two key labour market institutions, employment agencies and so-called job centres. Most non-European refugees came from Eritrea, Nigeria, Somalia, Afghanistan, Iraq, Iran, Pakistan and Syria. Enough said to the quantitative aspect of the refugee problem.

II. The legal framework for the labour market integration of refugees

The legal framework concerned here is extremely complex and complicated. It is a jungle of laws and regulations that are difficult to grasp, from both a technical standpoint as well as in terms of content. There are no less than five Acts that have an impact on vocational integration, without even mentioning the additional regulations for their application. These Acts and regulations each regulate partial aspects, while at the same time relating to each other. There are, of course, good reasons for this confusion with regard to the legal situation. Although the initial onset of immigration in the first decade of the new millennium was still comparatively manageable and could therefore be dealt with by means of slightly revised versions of the existing Aliens Act and an Immigration Act, the forced increase in migration and especially refugees continuously led to new challenges, which required new legal regulations for their resolution. It goes without saying that the clarity of the legal regulation suffered here. If I wished to give you an even reasonably complete presentation of the legal framework, I would need three times the length of time that is available to me. For this reason I will attempt to present and explain the base lines of the law applicable for refugees, in order to illustrate the

approach Germany has chosen for solving the problem of the labour market integration of refugees.

Like most other states, Germany has always had an Aliens Act for regulating questions of the residency and economic activity of foreigners. However, this purely administrative and public security regulation was increasingly regarded as insufficient. It can be said that a certain consensus came about in politics and society at the beginning of the new millennium, when immigration from abroad was regarded as positive in that it would better satisfy the demand on the labour market while at the same time helping to solve the problems that had arisen as a result of demographic changes. An independent Immigration Commission, established in the year 2000 by the Minister of the Interior at that time, developed recommendations for a new integration policy. Its final report started by determining that the Federal Republic of Germany had in fact become a country of immigration and that, in view of demographic change, immigration was not only not undesirable but indeed a phenomenon to be welcomed. A draft from the Federal Government from the year 2003 entitled “Act for the Control and Limitation of Immigration and for Regulation of the Residency and Integration of Citizens of the European Union and Foreigners”, was the beginning of a protracted parliamentary debate and heated discussion, which was successfully concluded with the enactment of the Immigration Act that came into force on 1st January 2005. One key objective of this Act was to organise and improve the employment opportunities of foreign employees on the German labour market. Whereby the legislator had the task of finding a compromise between the call for more immigrant workers, especially in branches where there was a shortage of skilled workers, on the one hand and continuously rising rates of unemployment on the other. The Residence Act, passed in the wake of the Immigration Act, replaced the former Aliens Act and developed regulation concepts that attempted to accommodate the afore-mentioned interests. I really must present the most important contents of this Act, because in principle they apply to this very day, even if frequently modified by the necessities that have become apparent with the latest wave of refugees.

The concern and scope of this Act can be seen clearly in its first paragraph. It states here: “The Act serves the purpose of controlling and limiting the influx of foreigners in the Federal Republic of Germany. It enables and organises immigration with due regard to the capacities for admission and integration and the interests of the Federal Republic of Germany in terms of its economy and labour market. At the same time, the Act shall also serve to fulfil the Fed-

eral Republic of Germany's humanitarian obligations. To this end, it shall regulate the entry, stay and economic activity of foreigners and the integration of foreigners." Without doubt the legislator was fully aware with this formulation that integration constituted a complex task. You can see here the repeatedly stressed charged relationship between the need for control and limitation of the influx of foreigners on the one hand and the desired acceptance and integration in society on the other, whereby the economic and market interests must be guaranteed. Generally speaking this problem has been resolved in that foreigners require a so-called residence title to enter and stay in Germany. Whereby the competent authorities primarily check questions connected with the administrative and security interests of the Federal Republic of Germany. A residence title entitles an immigrant to take up employment, i.e. dependent employment or a self-employed activity, insofar this is specified by the Residence Act or the residence title expressly allows the pursuit of gainful employment. On principle the residence title can only allow the pursuit of gainful employment with the approval of the Federal Employment Agency. In this respect the agency must undertake a so-called priority check. This means approval can only be given if the employment of foreigners does not result in any adverse consequences for the labour market and no German workers or privileged EU foreigners are available for the type of employment concerned and as the Act says "if it has been established for individual occupational groups or for individual industries that filling the vacancies with foreign applicants is justifiable in terms of labour market policy and integration aspects and the foreigner is not employed on terms less favourable than apply to comparable German workers."

How should these principles be applied specifically to refugees? According to the Act a foreigner must be issued with a residence permit if the competent Federal Office for Migration and Refugees has recognised refugee status. The same applies to foreigners who have been granted so-called subsidiary protection by this authority in compliance with the Asylum Act. The Act makes subsidiary protection subject to substantial grounds being shown for believing the foreigner faces the real risk of suffering serious harm in his or her country of origin. Serious harm is seen by the Act to include the imposition of the death penalty or execution, torture or inhuman or degrading treatment or punishment or serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

The granting of a residence permit is mandatory by law for the first two groups of persons. And this residence permit includes ex lege the entitlement to take up employment, insofar a stay in a reception centre is not required. Employment is limited to the duration of the residence permit. Another privileged group, at least in part with regard to the taking up of employment, concerns foreigners who have filed an application for recognition of asylum status. Although these persons cannot be granted a residence title, they are granted permission to stay pending the asylum decision. However, there is no right to take up employment immediately connected with this permission. This status is normally linked with a requirement to stay in a so-called reception centre. And the foreigner is not permitted to take up employment so long as this requirement remains valid. A special feature should be noted for asylum applicants from so-called safe countries of origin. According to the legal definition these include the Member States of the EU and those countries listed in an annex to the act. Such asylum applicants must on principle anticipate being deported and therefore have no chance of being permitted to take up employment. All other asylum applicants who have stayed in the federal territory for three months, can be permitted to take up employment from the fourth until the 15th month, if the Federal Employment Agency has confirmed, based on the above-mentioned priority check, that no privileged applicants from Germany or the EU are available for the position concerned. On principle the priority check is no longer required for taking up employment after a period of 15 months.

III. Professional qualification of the refugees

If the provisions and regulations just mentioned indeed sufficed as the legal framework, the term integration could only be used here with utmost reserve. In principle it would be no different from what is known in migration research as the “guest worker” model. To put it briefly, this consists of the recruiting and deployment of foreign workers with the sole purpose of satisfying the demand on the labour market. This can prove an extremely successful model and one which Germany very successfully put into practice in the 1960s and 1970s resulting in an influx of millions of workers from South and Southeast Europe and Turkey. These came seeking ways of escaping structural unemployment, under-employment or looking for chances of improving or expanding their financial livelihoods in their home country by means of a higher income in a shorter time.

The potential for problem that goes hand in hand with the people fleeing to Germany since 2010 is a completely different one. Just a few statistical data suffice to show that significantly more effort and measures are needed to ensure relatively successful integration alone in the labour market, without even touching upon integration in society and community life. The diversity of the languages of asylum applicants in the first six months of 2016 included 174 different mother tongues. 56.9% of these were Arabic, 15.2% Dari/Farsi and 5.9% Kurmanji. 17.8% of the adult asylum applicants questioned had been to university, 20.4% to a grammar school and 29.6% had undergone basic schooling. 35% of all adult asylum applicants were not gainfully employed in their countries of origin. 74% of those seeking asylum had not completed any kind of vocational training. The conclusion of the German employment services in the light of such information was clear: refugees can only satisfy the demand for skilled workers to a very limited extent. In the current situation they can only be deployed in what the labour market refers to as semi-skilled and unskilled jobs. These findings clearly indicate the enormity of the task with which the German state and German society are confronted in connection with this wave of refugees.

1. Promotion of language skills

A basic requirement for the pursuit of an occupational activity in Germany is first and foremost a command of the German language, albeit in differing intensity depending on the job involved. It was therefore of great benefit that the Immigration Act of 2005 already pursued the concept of promoting integration in the economic, cultural and social life in the Federal Republic of Germany. The core of the integration efforts is a basic package of measures to promote integration aimed at successfully imparting the language, legal system, culture and history of Germany to foreigners. It is intended to acquaint foreigners with the way of life in the federal territory to such an extent as to enable them to act independently in all aspects of daily life, without the assistance or mediation of third parties. The integration course comprises a basic and advanced language course of identical duration to provide sufficient command of the language and an orientation course to impart knowledge of the legal system, culture and history in Germany. However, the wording of the act specifically stipulates that this support programme is to be provided only for foreigners living lawfully in the federal territory on a permanent basis. Due to the flow of refugees both the entitlements and obligations to partici-

pation in an integration course have been considerably extended in recent years. It is not possible for me to go into the legal regulation in any great detail. Roughly speaking you can say that foreigners residing in federal territory on a permanent basis and who have held a residence permit for over 18 months as well as foreigners who hold a temporary residence permit and are expected to be permitted to remain lawfully and permanently are entitled to attend an integration course. And this entitlement becomes an obligation if they do not possess a sufficient command of the German language or if they are drawing social benefits (I will come back to this point in a moment). It is evident from the above, that the German legislator also endeavours to provide a basic knowledge for groups of persons from whom it expects long-term integration as a prerequisite for successful and permanent integration. That is why these groups of persons are not only entitled to, but also obliged to attend an integration course. Failure to meet this attendance obligation can be liable to penalties. Here you can see the concept of German integration legislation, which is characterised by the very apt German play on words *fördern* (encourage) and *fordern* (demand). This concept dates back to the almost simultaneously established system of basic provision for German citizens, which was created under the so-called Hartz reforms. Foreigners who fail to meet the obligation to attend an integration course must expect disadvantages in the lengthening of the residence permit or temporary residence permit and reductions in social welfare benefits.

2. Active labour market measures

A certain command of the German language is an indispensable prerequisite for professional integration, but by no means sufficient to gain access to the labour market. Instead the requirements of a qualification profile that meets the job on offer must be fulfilled in the person of the job-seeker. For this reason the aspect of vocational training has been given high priority for quite some time, but has been intensified significantly in particular by the Integration Act of 2016. The German Employment Promotion Act offers a wide range of vocational training measures that are now also to be made available to refugees. However, here again a selection mechanism depending on the status of the refugee is effective, in the light of the necessity for migration control. These include preparatory vocational training courses and assistance during training for those who are undergoing training, which includes measures for removing language and educational deficits, for promoting practical and theoretical specialist skills as well as socio-educational help and support. Another form of support consists of so-called assisted

training, which provides similar measures. Foreigners who are expected to be permitted to remain lawfully and permanently and who have held permission to stay for at least three months are entitled to such support. Foreigners who have already held a temporary residence permit for at least 15 months are also entitled to an apprenticeship grant that is intended to promote state-recognised training by reimbursing living costs, travel expenses and other expenses. The Integration Act also gives access to certain measures of active labour market promotion to specific persons who cannot be deported for reasons given in more detail in the Act, but mainly for reasons of international law and humanitarian grounds. However, all the above-mentioned measures are subject to a time limit. A right to the measures only arises if they were started or applied for before the 31st December 2018.

An equally time-limited regulation allows the employment agencies of certain districts to grant foreigners holding a temporary suspension of deportation or a permission to temporarily stay to take up employment as temporary workers without the requirement of a priority check.

3. Special employment opportunities

a) Work opportunities in reception centres

Parallel to what applies to persons who depend on basic provision, the AsylbLG (law pertaining to benefits for asylum seekers) provides for the creation of job opportunities in reception centres for refugees, in particular for the maintenance and operation of the centre. This entails all tasks involved in the operation of such a facility. Also in conformity with the regulation pertaining to basic provision, the person concerned receives a remuneration of € 0.80 an hour as an expense allowance for the work to be performed. It is clear that such opportunities do not constitute regular employment, but a low-threshold work experience in the labour market – as this is called in bureaucratic parlance. Failure to comply with this obligation also entails consequences, in particular reductions in benefits.

b) Integration measures for asylum seekers

In order to offer asylum seekers the opportunity of a meaningful activity while their asylum procedures are pending, the government has introduced an FIM (Integration Measures for Refugees) programme intended for 100,000 asylum seekers. The aim of the programme is to place asylum seekers in charitable work opportunities. The Federal Republic is to invest 300 million Euros in this programme between 2017 and 2020. In addition to the activity itself this programme serves to enable the earliest possible acquisition of the language and basic social principles.

IV. Permanent settlement permit

In compliance with the Geneva Convention on Refugees recognised asylum seekers and refugees are granted a residence permit as a first step, which is limited to maximum three years. A secure position and thus permanent integration of this group of people is not achieved until they are granted a so-called permanent settlement permit. This permanent settlement permit is subject to a multitude of legally defined terms and conditions. I cannot list all of these in detail, instead I will pick out only a few to illustrate the necessity that the person concerned has become integrated to a considerable extent in the social and working life of the Federal Republic of Germany in the previous years. This means that the foreigner has held a temporary residence permit for five years, his or her subsistence is secure, he or she has paid compulsory or voluntary contributions into the statutory pension scheme for at least 60 months, he or she is permitted to be in employment if he or she is in employment, he or she is in possession of the other permits which are required for the purpose of the permanent pursuit of his or her economic activity, he or she has a sufficient command of the German language and possesses a basic knowledge of the legal and social system and the way of life in the federal territory as well as sufficient living space for himself or herself and the members of his or her family. So you can see it is not easy to get a permanent settlement permit, although this is of great importance for permanent employment in the Federal Republic of Germany, because employers quite understandably require a substantiated prospect of permanent settlement when taking on employees.

V. Evaluation

The scope of my paper does not allow me enough time to give a comprehensive evaluation of the legal framework and what has been achieved on this basis. Nevertheless, I would like to make a few concluding remarks. Evaluating refugee policies is a difficult undertaking in any case. Because who lays down and where are the evaluation standards. Although we have migration researchers worldwide, we can to date not speak of what is normally referred to as the mainstream. The opinions of experts as to what constitutes good refugee policy vary widely. A much noted statement, which indeed favours forced immigration, is based on the demographic situation in the Federal Republic of Germany. According to this Germany lacks up to 300,000 births a year to maintain a continuously adequate population. One argument often cited in this connection is the decline in the working population and in particular qualified employees. It is assumed that the potential labour force will fall by one third or 15 million potential workers by the year 2050. The long-term historical average indicates that the net number of migrants a year is 200,000, but more than 500,000 are needed according to realistic assumptions concerning labour participation in order to maintain a stable number of employable persons.

Other powerful voices deny that uncontrolled migration would lead to an economic and fiscal return. This assumption is thought unrealistic, on the contrary the reception of refugees would make demands on the public budgets in Germany. However, exponents of this view do not demand a complete reversal. In point of fact they also stress the necessity, that Germany, as a wealthy country obligated by special humanitarian values and fundamental constitutional principles, must advocate the reception of refugees in need of protection. And the necessity for this must be conveyed with complete transparency to the general public. In this respect – as I would like to add in this context – the political discussion in (the Federal Republic of) Germany has not always found the necessary measure and the desired standard. Sceptics of uncontrolled and unchecked immigration demand immigration legislation that would lead to directed flows of migrants.

If you are concerned with the integration of refugees in the labour market, you will inevitably – as my remarks have shown – be confronted with the question as to what form the steps should take if in the last instance they are to ensure a workplace for a refugee. The solution here is quite clear in Germany. Cultural integration with a focus on command of the language is regarded as essential and a basic requirement for professional activity. The Dutch migration

researcher Ruud Koopmans praised this concept. The results of his research suggested that the poor labour market integration of Muslim immigrants was due not to discrimination by the majority society, but in fact to a lack of cultural integration. Anyone who integrates culturally – according to Koopmans -, in other words anyone who knows the customs involved in looking for work and who establishes networks, will find it far easier to get a job. This is also confirmed by an old stage model from American research, whereby the socio-cultural integration of migrants comes first, followed by structural integration in the educational system and labour market and finally identification with the country of residence.

Finally a few comments and figures concerning labour market integration. First comes the question: Are German employers or companies operating in Germany willing to take on refugees? An empirical report from 2016 indicates that only 15.4 percent of the approximately 600 companies surveyed are thinking specifically of taking on more refugees in the next two years. 38.2 percent completely rejected the idea. Until now less than every fifth company has had any experience with refugees its establishment. However, three quarters of the companies who already have refugees on the payroll have had good or very good experiences with them. They say they cannot understand the general reluctance of many employers in this regard. The report once again stresses the finding that from an operational perspective language barriers and problems with cultural adaptation cause serious difficulties. What on the other hand I found surprising, is that a lack of expertise was regarded as a less decisive factor. At the end of 2016 approximately 131,000 persons from the eight major non-European countries of origin of asylum seekers were pursuing employment that is subject to social insurance contributions. An increase of about 47 percent compared to the same month of the previous year. That was approximately 10 percent of the refugees that had come to Germany in the last three years.