Institutional determinants of immigration policy in the Federal Republic of Germany - summary

Summary of the doctoral dissertation
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„Institutional determinants of immigration policy in the Federal Republic of Germany”
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The doctoral thesis deals with the issue of immigration policy pursued in the Federal Republic of Germany. The results of the conducted literature research was an inspiration to formulate the research problem and to conduct further analysis.

Migrations have become one of the characteristics of contemporary social and economic systems. They are part of the globalized reality that transforms society and both the political and cultural life of multiple countries.

Migration processes have significant influence on the development of the labour market situation in modern economies. These processes have also become a determining factor in the functioning of economies in the Member States of the European Union and play an important role due to the continually decreasing birth rate, and thus the ageing of European society. Thanks to population migration, the demographic balance in many EU countries has remained positive.

Migrations have become a phenomenon so intense that in order to avoid organizational chaos, and in extreme cases, destabilization of public order, the state institutions of the host countries are forced to create and continually adapt legal regulations which define the ways of admission of immigrants, the legal status of their stay and aspects of the integration process¹.

¹ P. Wojnicz, Prawne aspekty integracji imigrantów w Unii Europejskiej w kontekście wielokulturowości, [w:] Civitas Et Lex 4/2014, Wydawnictwo Uniwersytetu Warmińsko-Mazurskiego w Olsztynie, Olsztyn 2014, s. 29.
One consequence of the growing scale of the immigration phenomenon in the EU is the need for an effective common immigration policy which will be closely linked to the size and structure of migration flows.

A necessary step to effectively define the goals of immigration policy in the EU is to attempt to create a uniform, complex and transparent legal framework. A liberal attitude towards immigrants and a flexible labour market are considered essential while any measures designed to stop the flow of workforce in the globalized reality are doomed to failure.

The Federal Republic of Germany gives the best field for reflection on the Europeanization of a country’s national immigration policy. Germany had introduced its independent immigration policy even before the EU (European Community) in 1999 under the Treaty of Amsterdam gained competencies in legislation relating to specific issues of immigration and immigrants.

Based on these competencies, the European Community began to lay out common transnational political objectives aimed at controlling immigration processes. A coherent set of legal norms has been created and developed in order to regulate the entry of immigrants into the territory of the Member States. Unlike traditional immigration countries such as the United States or Australia, for a long time Germany had not considered itself an immigration country. As a result, a liberal policy of immigrant admission had been in place and the issue of social and cultural integration pushed into the background.

Over the past two decades in the Federal Republic of Germany a paradigm shift in the national immigration policy has taken place which has been expressed by a reform of law in this matter. It took place in the context of European commitments and showed a strong link of mutual interaction of the national and transnational level. Considering the fact that the main path to Europeanization was represented by directives with long terms of transposition, a change in German law can only be seen in the last decade. In this case, one can speak of a change at the national level influenced by various external factors which originate from the process of European integration.

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Given the above, German immigration policy in the context of a common EU immigration policy has been adopted as the main objective of the analysis.

Changes in Germany’s legal order deserve special attention due to its role in the decision-making process of the European Union. The dissertation is focused on the study of the course, methods, scope and effects of Europeanization of German immigration law. Efforts were made to present the history of the creation of a European immigration policy as well as, based on key documents, show the political priorities regarding its implementation. The research attention was focused on forms and effects of national factors on the final shape of the European immigration legislation as well as the actual impact the actions taken by European institutions have on the Member States.

In order to focus on identifying the most important relationships and dependencies that exist within the examined situation a number of research hypotheses was made.

For the purpose of this research, the main hypothesis was adopted, where it is believed that the process of Europeanization of immigration policy in the Federal Republic of Germany takes place gradually and its character stems from considerable freedom in its creation. At the same time, it is assumed that Germany has a significant impact on the shape of EU immigration policy.

The dissertation is also an attempt to verify two partial hypotheses. With reference to the detailed objective related to the characteristics of immigration policy in the Federal Republic of Germany, it is believed that the Europeanization of German immigration policy will become more likely if Germany is able to combine its legal order with European requirements on both national and international levels. The second auxiliary hypothesis refers to Europeanization understood as a process where the immigration system present in a member state is included into the European system. In accordance with this hypothesis, it is believed that the need to adjust which flows from the European space and relates to the principle of supremacy of Community law over national law does not impose changes on Germany’s national politics.
The realisation of objectives and hypotheses formulated in this dissertation required appropriate selection of literature. The thesis has been prepared based on both Polish and, predominantly, foreign-language literature of the subject. The majority of Polish as well as foreign source literature were non-serial publications and scientific articles from academic journals and periodicals on the theory of migrations, European politics and law, European integration, evolution of immigration law in both Germany and the European Union and the impact of immigrants on the functioning of Germany’s socioeconomic system.

For the purpose of this thesis, the latest literature on the subject has been used, and in case of significance of undertaken analysis, attention has also been paid to some classic studies on the issues discussed. Of particular importance were the studies and reports published by the German Statistics Office (Statistisches Bundesamt), the Ministry of the Interior (Bundesministerium des Innern) and the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge).

The structure and content of the dissertation have been developed in line with the main objective. The principal part of the dissertation consists of 6 chapters, preceded by an introduction and followed by a conclusion. The thesis also includes a list of references, list of tables and a list of charts.

The first chapter presents the reflections on the concept of migration, definitions of migration in the various scientific disciplines and outlines selected economic theoretical concepts relating to the conditions of existing migration processes. The author also describes the effects of migration, which can be analyzed from the point of view of the state of origin and the country of destination, as well as their impact on both countries and their communities.

A detailed description of the historical aspect of Germany’s migration policy since 1945 has been presented in the second chapter and has been divided into seven phases. The presented study is an attempt to identify the phase that was characterized by a change in immigration policy and the decisive factors that shaped the political processes. The aim of German migration policy has been and still is the controlled immigration and integration of immigrants already present in Germany. Therefore the changes and reforms of immigration policy must be considered at the political level which migration represents as well as in relation to political priorities.
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and social and economic impact. The author believes that the conditions necessary for a change in policy within transformation processes comprise of a constellation of interests, the ability of national institutions to take action and the strength of the perception of the problems by society and strategies to solve them on a case-by-case basis. The Immigration Act, which came into force in January 2005 sealed Germany's formal shift in the direction of an immigrant country.

The third chapter presents the socio-demographic effects of immigration. Since 1945, the Federal Republic of Germany has experienced multimillion influx of immigrants, however, it had for many years consistently denied being an immigrant country, and had not admitted to pursuing immigration policies. In the process of analysis, the immigrants who came to Germany were divided into four groups - refugees from the German Democratic Republic, Guest workers, persons displaced and late resettlers after World War II and foreigners seeking asylum. The chapter also provides the numerical characteristics of the development of immigration and a discussion on Germany’s demand for immigrants in the future. The second part of the chapter analyzes the process of integration of immigrants with the native population and possibilities for applying for German citizenship.

The main aim of the following chapter is to analyze the economic impact of immigration in the Federal Republic of Germany. The subject of analysis was the German labour market in particular (employment level, unemployment rate and level of wages among immigrants), aggregate demand and the impact of foreigners on public finances. There has been presented an analysis of German interests in the process of recruitment of highly skilled workers, with a focus on the scoring system proposed by the Independent Committee for Immigration, chaired by Professor Rita Süssmuth and the Directive on the Blue Card on the conditions of entry and residence of third-country nationals for the purpose of employment in a profession requiring high qualifications.

The fifth chapter presents the concept of Europeanization, the state of research on Europeanization including mutual influences between national and European policy and the possible directions for its implementation. The chapter also describes the process of formation and development of European immigration policy, starting from the first political decisions on cooperation in relation with border controls.
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(the Schengen Agreement) and ending with the implementation method of the provisions contained in the European Pact on Immigration and Asylum and the Stockholm Programme.

The sixth chapter is a description of the German system of government which is characterized by a high degree of fragmentation. This means that the government is divided into a number of co-deciding institutions which are linked with the political system being based on consensus democracy and the progressing European integration. The author has attempted to answer the question: who manages immigration policy in the Federal Republic of Germany and who are the main subjects influencing the decision-making processes in terms of national sovereignty, security and economic benefits, and even the controlling of immigration in the labour market and political decisions in the context of Europeanization of immigration policy.

The obtained results show that the Europeanization of national law is a complex process of interaction between national legal systems and the elements comprising the legal system of the European Union.

Consequently, it can be assumed that in the course of the research, the main research hypothesis gained empirical support. It has been proven that Europeanization does not result from the pressure of the European Union member states, i.e. the top-down perspective, but it is a process in which the national competencies and political decisions are transferred to the EU, and thus European actions remain in line with national interests.

Through the process of Europeanization, Germany expressly retains national strategies in relation to the EU. Autonomous self-confidence of entities participating in European debates can be observed and described as an effective representation of German interests at the European Union level. In this sense, the analysis proved that the German subjects are seen as the "originator" or "entities setting the tone" with respect to solving their own problems through the EU. It is therefore clear that the Federal Republic of Germany participates in the process of Europeanization

3 M. Knodt, Europäisierung: Eine Strategie der Selbstbehauptung?, [w:] M. Knodt, B. Kohler-Koch (red.), Deutschland zwischen Europäisierung und Selbstbehauptung, Campus Verlag, Frankfurt am Main 2000, s. 35.
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through the prism of self-confidence and faith in their abilities and wants to utilize it as a form of active self-interest politics\textsuperscript{4}.

To summarize, it is needless to say that the gradually implemented immigration laws of the European Union corresponded with German interests and was largely a reflection of the German legal status in this regard. The implementation of EU Directives did not therefore require radical changes to German immigration law.

In the Federal Republic of Germany there is currently a paradigm shift in its immigration and integration policies to seek flexible solutions relevant for the present time. Given the negative demographic trend and global competition, the Federal Republic of Germany requires mainly highly skilled foreigners and German politicians have been working to introduce a national system for recruitment of elites\textsuperscript{5}.

The issue of integration of foreigners into German society is very complex and multifaceted, and the real socio-economic situation of the immigrant population casts a shadow over the progress of integration emphasized in the officially published statements. Numerous studies confirm that the long-time unacknowledged fact that Germany is an immigrant country resulted in the absence of structural integration of immigrants. Immigrants are the weakest link in German society and are at risk of unemployment, social exclusion and poverty. As noted by Bernhard Santel, the society of the Federal Republic of Germany failed to respond adequately to emerging problems of foreigners and too late recognized the fact that it is a multicultural society. Germany must remember that "integration costs a lot, but non-integration costs even more"\textsuperscript{6}.

This thesis has shown that German immigration policy since the 1990s has no longer been exclusively created at the national level by the executive, legislative and judicial authorities, but more often at EU level. This has led to a style of German policy making that deliberately intends to support the communitarisation between the Federal Republic of Germany and the European Union.

\textsuperscript{4} B. Kohler-Koch, Europäisierung: Plädoyer für eine Horizonterweiterung, op. cit., s. 11.
\textsuperscript{5} M. Szaniawska-Schwabe, Polityka imigracyjna Republiki Federalnej Niemiec, [w:] Przegląd Zachodni 2009, Nr 4, s. 25-26.
\textsuperscript{6} B. Santel, Wissenschaft kurz gefasst! Informationen zu Migration und Integration aus der Forschung, [w:] B. Santel, H. Schock, Migration und ethnische Minderheiten, Wyd. 1/2005, soFid - Sozialwissenschaftlicher Fachinformationsdienst, Leibnitz Gemeinschaft, Bonn 2005, s. 7-8.
Moreover, the dissertation has demonstrated that the immigration policy in the Federal Republic of Germany developed as comprehensive, interdependent and linking national interests and processes of Europeanization. Especially noteworthy are German interests in respect of national sovereignty, security and the usefulness of economic migrants and ways to manage a migration-oriented labour market.

In conclusion, it must be once again noted that with respect to certain European laws (eg. Directive on family reunification) it seems more relevant to talk about the transfer of German solutions to the European level, i.e. the so called Germanization of European law. This is due to Germany’s experience in the field of immigration and their dominant position in the decision-making process at European Union level.\(^7\)

\(^7\) I. Wróbel, Europeizacja prawa imigracyjnego Republiki Federalnej Niemiec…, op. cit., s. 402-403.