



Alternatives to asylum? Legal migration channels to Germany for third-country nationals not in need of protection

Summary

Germany has substantially liberalised its legislation on migration for work and training over the last 10 years. Under the Skilled Worker Immigration Act, further liberalisation based on labour market and economic considerations is set to take effect in early 2019. While it is primarily academically and professionally skilled migrants who have benefitted from this liberalisation to date, low- and medium-skilled third-country nationals still have few legal mobility options if they have no formal qualifications or qualifications which are recognised in Germany. That is why potential migrants wanting to work or train in Europe, or Germany specifically, often use irregular channels and then invoke asylum law as the most obvious or in fact only means available of acquiring residence status. This leads to the misappropriation and overburdening of the international system of protection.

As a result, calls are being heard at national and European level to create new or to expand existing legal mobility options for third-country nationals – the assumption being that these will provide alternatives to irregular entry. This was also the rationale behind adopting the regulation applicable to labour migrants from the Western Balkans, which grant people without a recognised professional or academic qualification the right to work in Germany. There is as yet no empirical proof to back the theory that creating legal options leads to a reduction in irregular migration. In addition, various factors have a bearing on which legal mobility options can be expanded in practice. There is currently significantly more political and social consensus when it comes to facilitating entry for those with professional qualifications than for those without formal vocational qualifications. Rejected asylum-seekers who have successfully integrated into the German labour market are an exception, though, and “lane-switching” is currently being discussed as an option for this group. However, practical obstacles and a lack of legal options mean that it is still not clear how low- and medium-skilled migrants who primarily have economic motives for coming to Germany are to be dealt with in future. Legal migration options for work and training for low- and medium-skilled third-country nationals could serve various purposes. First, they could take some of the pressure off the asylum system. Second, they could meet labour market needs in selected low- and medium-skilled occupations. Third, tailored solutions might also serve Germany’s development and foreign policy if the interests of the countries of origin were taken into account.

The study discusses these objectives and makes recommendations for action when it comes to designing future legal mobility options for work and training. However, the first step before thinking about what concrete instruments might look like must be to define immigration policy target ranges. A whole-of-government approach is necessary to ensure that labour market, security-driven, development and foreign policy interests are reconciled as far as possible. An “immigration cabinet” which meets regularly could provide a forum for interministerial discussions about these interests and the resultant objectives. Current debate on existing instruments revolves around whether the regulation applicable to labour migrants from the Western Balkans, effective until 2020, should be extended or expanded to include other countries. However, there are various reasons for not extending the currently applicable provisions to include the Maghreb countries, for instance. Improving or reactivating other migration channels may well be more effective. It is important that lessons are learned from past experience and existing entry channels are systematically evaluated.