

# Illegal Immigration and Legalisation in Europe

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## **A. Introduction**

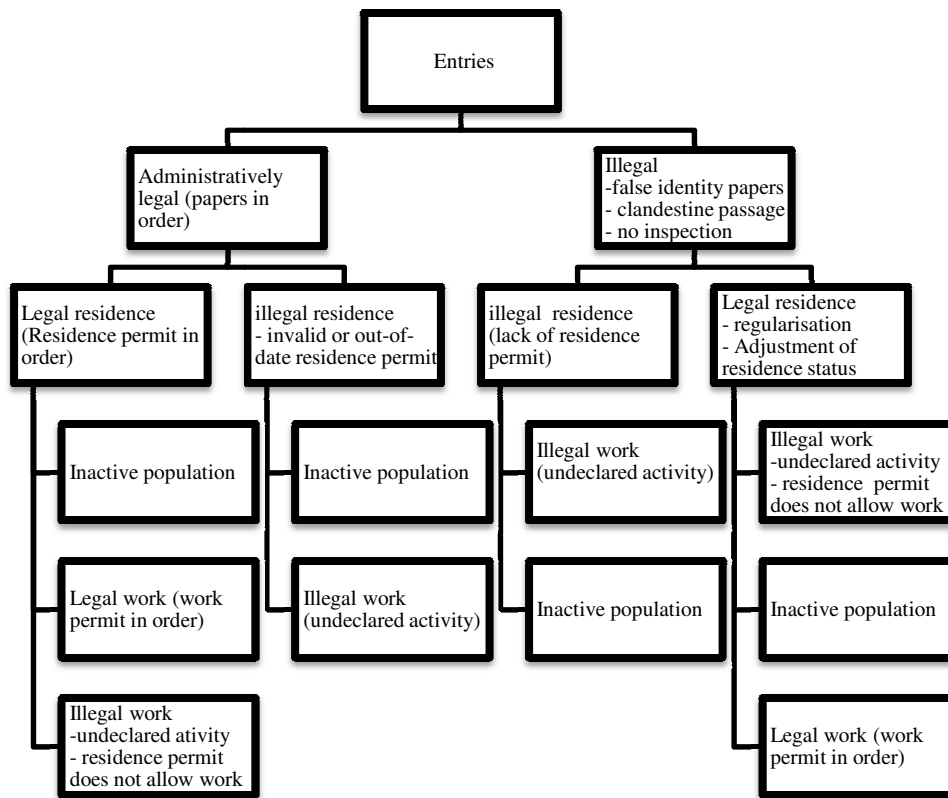
### **1. The empirical foundations of politics on illegal immigration**

#### **1.1 Definition of illegal immigrants and their number**

Illegal immigrants often do not give up their ties to their home country but earn a living for their families in the host country. Some of them come illegally; others enter the country legally but subsequently become illegal. Thus, there is not a unique group of people who can be categorised as “illegal immigrant”. The reasons why they are illegal are varied and therefore it is necessary to be aware of the diversity of illegal immigration before describing this group of people.

Illegal immigrants can enter the EU legally or illegally. In the first case, their residence becomes illegal if they stay longer than they are allowed. Third-state nationals who continue to stay in the country after their visa has expired, usually after three months, are called “overstayers”. Overstaying is a common strategy for illegal immigration, especially from countries where EU Schengen visas are issued (eastern and southeastern Europe, including Russia, Turkey, Latin America, and some Asian countries). Tourists become permanent illegal immigrants; students, au-pairs, and language students remain illegally in the host country after the purpose of their stay has finished. Besides visa “overstayers”, there is another group of people who are allowed to enter the EU without visa requirements but are not allowed to settle in the Union automatically. A large proportion of the illegal population in Spain consists of Latin Americans who are exempted from the visa requirements and use this rule to enter the country as “tourists” and work illegally in the country (Wehinger 2009; Izquierdo 2004: 61). But even people who are originally in possession of a legal and valid residence permit can become illegal. If a person from the new accession states in the middle and eastern European countries (MEEC) starts working during his or her residence in one of the old member states that still has not opened their labour market to nationals of the MEEC-8, they forfeit their residence permit by this illegal act and their stay can be categorized as illegal.

Figure 1: Ways into illegality (source: OECD 2000: 18)



In addition to legal entry, there is the group of people who enter the EU illegally. They do so by using counterfeit identity papers or real papers obtained by fraud. In these cases, they fake a seemingly legal entry, although it is illegal *de jure*. Another form of illegal entry is the clandestine passage over the border, which is the most risky form of starting an illegal residence. This latter mode of illegal immigration also attracts the most attention in the media and from the public. Although one's first thought is of illegal passengers hiding in lorries or overcrowded boats arriving on the coasts of Lampedusa or the Canary Islands, this form of illegal immigration is less important than the method of legal entry and subsequent illegal stay (Carling 2007: 321). Quantitatively, illegal immigration over the maritime border is particularly insignificant compared to other forms of illegal entry and illegal stay. This form of immigration is usually used by nationals from poorer countries without legal access to the target country. Although illegal entry over the sea affects geographically exposed states in southern Europe, even here it is only a minor source of illegal immigration. In 2006, 22,000 people were apprehended on the coasts of Sicily with the largest group debarking on Lampedusa (Finotelli 2007). On the Spanish coast, 131,000 people were apprehended during the period from 1999 to the beginning of 2006. In 2006, this number amounted to 31,000. These figures show that the bulk of illegal immigrants take other routes (Cyrus 2004).

Concerning the number of illegal immigrants in the EU, there are no accurate estimates except for the Netherlands. While there are certain methods used to measure the number of illegal immigrants or the flow of illegal immigration (Delaunay and Tapinos 1998: 35-70), these figures are difficult to accurately estimate because of insufficient statistics or practical problems such as a lack of cooperation from enforcement agencies. Thus, only general estimates are possible (Vogel 1999: 182).

There are a few estimates for the United States that are relatively well acknowledged. The Office of Immigration Statistics, for example, estimates that 10.5 million unauthorised immigrants were living in the United States in 2005 (Hofer, Rytina and Campbell 2008: 5; similarly Passel 2005, 2007). They compare statistics on foreigners, notably the difference between estimates of foreign-born legal residents and the total foreign-born population. Espenshade (1995) also estimated the flow of illegal immigration. In this case, the probability of being captured at the border (measured by repeated attempts to cross the border) combined with the number of apprehended people yields the total number of unauthorised entries.

Estimates in Europe cannot be compared with the United States because EU authorities are reluctant to publish data. Estimates for the UK range between 120,000 illegal residents (minimum in Düvell 2007) to 870,000 (maximum in Migration Watch UK 2005: 1). The Home Office calculated the difference between the total foreign-born population measured by the census in 2001 and the legal resident foreign-born population. It comes to the conclusion that the number of illegal residents must be between 310,000 and 570,000, with a central estimate of 430,000 (Woodbridge 2005: 5). There are some other calculations, but most of them do not meet scientific standards.

Least known is the situation in Germany. Experts estimate the number of illegal immigrants to be around one million (Cyrus 2004: 33; SVR). Alt (2003) states that between one and 1.5 million seems to be realistic for 2003.<sup>1</sup> This number is the result of a projection of detailed case studies in Munich and Leipzig.

In France there is also only one estimate that comes from the government. The Ministry of the Interior predicts that between 200,000 and 400,000 people were residing illegally in France in 2005 (Commission 2006).

Among a number of studies which are at least of average quality, the work of Blangiardo (2006, 2007, and 2008) stands out: regular surveys of several thousand people are carried out in Italy. To get the whole picture, the questioning focuses on centres where immi-

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<sup>1</sup> After the accession of the Middle and Eastern European countries to the EU, the number should have fallen by a half a million to one million (Alt 2004).



grants are concentrated (centre sampling). This results in estimates of 541,000 illegal immigrants in 2005; 650,000 in 2006; and 349,000 in 2007.

Other examples of methodologically ambitious studies can be found for the Netherlands. Engbersen et al. (2002), Leerkes et al. (2004), and van der Heijden et al. (2006) use the capture-recapture method, which is used in zoology to measure the population of animals. The number of people who are apprehended several times by the enforcement officers leads to the total of the illegally resident population. By using this method, van der Heijden et al. (2006: 10) estimate the number of illegal immigrants, excluding eastern Europeans, to be 88,116 people (minimum 62,320 and maximum 113,912).

### **1.2 Illegal immigrants' social structure**

For the same reasons as in the case of estimates of the number of illegal immigrants, it is very difficult or impossible to get an idea of the social structure of immigrants. However, relative to estimates on the number illegal immigrants, there are many studies that examine the social situation of illegal immigrants and their strategies of survival (this is particularly true of the situation in Germany, which leads Europe in this field of investigation). The most detailed studies report on the illegal immigrants' strategies to cope with daily life, such as finding employment and working (Alt 1999 for Leipzig, Alt 2005 for Munich, Stobbe 2004 for Germany, Krieger et al. 2006 for Frankfurt; Anderson 2003 for Munich; Alscher, Münz, and Özcan 2001 for Berlin). The common characteristics of illegal immigrants are their dependence on short-term jobs that are low paid, precarious lodging situations, and difficult access to health services. They must rely on ethnic networks for finding jobs and evading police controls and labour inspection (Cyrus 2004: 28). The latter point is less important in Munich, where illegal immigrants often find work in private households (Alt 2005: 79). These studies show that illegal immigrants run the risk of finding themselves in difficult circumstances (Schönwälder, Vogel, and Sciortino 2004: 69).

The most important tasks illegal immigrants have to tackle in their host country, namely finding lodging, finding work, having access to health care and—for their children—to the educational system, are of different degrees of difficulty in Europe. In some countries, access to public services is not totally closed. In Spain and Portugal, illegal immigrants have almost comparable rights to health services as impoverished citizens do (PICUM 2003a), whereas in Germany they run the risk of being detected if they are treated by a doctor. Illegally residing children are required to attend school in Austria, Spain, and Italy (*ibid.*). In Germany, however, head teachers are obliged to report the illegal status of their students, which makes school

attendance the thing that exposes them to the danger of being detected. “Tremendous enforcement efforts” (Cyrus and Vogel 2006: 76) prevail in Germany.

Some southern European countries are more open to illegal immigration than Germany or the Scandinavian countries (for the latter see Brochmann 1999: 13; Hjarnø 2003). The control level has been low and the economy has relied on cheap immigrant labour, although legal residence was almost impossible (Kreienbrinck 2004: 47). The legalisation campaign in Spain in 2000 revealed that 35 percent of the applicants were employed in agriculture, 15 percent in construction, 15 percent in domestic services, and 11 percent in tourism (Calavita 2005; see also Gómez and Becerra 2005). In Italy, illegal immigrants worked in the agricultural sector of southern Italy or in services in the north (Calavita 2005). The most reliable data on illegal immigrants’ social profiles can also be deduced from amnesty data. According to these figures, their profiles do not differ much from that of legal immigrants (Salt, Clarke, and Wanner 2004: 56): young and male.

### **1.3 Economic consequences of illegal immigration**

Illegal immigration has found only limited attention among economists because it is difficult to make any concrete statement on the issue. On the other hand, illegal immigration, measured by apprehensions at the border, has been much larger than legal immigration, measured by visas issued, over long periods of recent history in the United States (Simon 1989: 286). There is a gap between the importance of the phenomenon and the knowledge about it; however, some assumptions can be made.

Concerning legal migration, most studies have found none or only a small effect on the wage level of native workers (Borjas 1997, Friedberg and Hunt 1995). These results suggest that a ten percent increase in the number of immigrants results in wages decreasing by 0.1 to 0.2 percent (Djajić 2001: 155). The economic performance of immigrants is a major public concern in view of their aggregate unemployment rate and dependence on social welfare schemes. However, the situation of illegal immigrants is very different from that of legally residing aliens.

The effects of illegal labour on natives’ wages was most comprehensively analysed by Chiswick. He assumes two groups of native workers in a model economy, one low-skilled, the other high-skilled. Besides labour, there are two other production factors: capital and land. When low-skilled immigration occurs, low-skilled native workers suffer wage reductions because the supply of labour in their segment of the labour market increases. If wage rigidity is strong, for example because of minimum wages, they face a higher risk of becoming unem-

ployed. Higher-qualified workers and capital owners will benefit from the inflow of low-skilled labour because low- and high-skilled labour is complementary: “the productivity of a factor increases the greater the amount of other factors with which it works” (Chiswick 1988: 106-7). These gains offset the losses suffered by low-skilled natives, so it is possible to make even low-skilled people better off than before their immigration, which ensures Pareto optimality. Higher revenue from taxes or higher social security contributions by high-skilled people and higher revenues from taxation of capital are redistributed through income transfer schemes such as unemployment benefits, social assistance, and reduced income taxes, to the advantage of lower income groups.

The situation changes, however, when immigrants themselves draw welfare benefits, which is not unlikely given their lower income and their higher risk of becoming unemployed (Bonin 2005). It is at this point that immigration becomes a burden for the income transfer system and positive welfare effects generated by capital and the high-skilled end of the labour market is lost. This effect increases if immigrants are allowed to bring their relatives into the countries (spouses and children), which will heavily increase the costs for the whole society. Spouses have a lower probability of working, at least in the initial phase of their immigration, because of a lack of skills or a lack of time due to caring for children, and might therefore receive welfare benefits. Additionally, immigrants’ children consume public resources, especially education. Illegal immigrants, however, are not eligible for family reunification because they do not even possess a valid residence permit for themselves. Young male immigrants are over-represented, children are not common, although are present among illegally residing aliens (Cyrus 2004: 27-8; Worbs, Wolf, and Schimany 2004: 9). Illegal immigration is extremely cheap for the host country compared to other forms of immigration because it has no direct impact on welfare regimes and other forms of state expenditures. These characteristics also hold true with regard to the relationship between employers and illegal immigrants. Employers make use of illegal labour because it is cheap and flexible and is also available in sectors where it is difficult to find native labour (or legally residing foreigners) because of below-standard working conditions and low remuneration (Papademetriou 2004). If the employment relationship is not declared, taxes and social insurance contributions are not paid, thereby drastically reducing labour costs. Usually illegal immigrants do not have an alternative to working in the informal sector because social insurance schemes and tax payments require a valid residence and work permit. Therefore, this group of people is especially vulnerable to fraud in the form of deferred or refused wage payments. Although they might take legal action against such forms of deceptions, this would mean that their illegal status, which illegal

immigrants want to avoid revealing, would be detected (Fodor 2001: 132; Sieveking 1999: 109). Other solutions for this problem, like the help of trade unions or human rights organisations, are not available for many of them. Employers sometimes even threaten to call the police if their illegal workers are unwilling to accept the working conditions or assert their rights (Worbs, Wolf, and Schimany 2005: 21). This threat is especially real if the work is related to mafia-style organised human trafficking or professional subcontractors employing illegal immigrants on a regular basis.

Flexible employment is advantageous in times of highly increasing demand for labour. Initiating formal employment relationships takes time and is difficult to reverse. Employers sometimes need workers only for a limited period of time or don't know for certain how long they need them. In such cases it may be worthwhile for employers to make use of illegal labour and at the same time cut labour costs.

Another important economic insight on illegal immigration is that one should pay attention to the sensitive relationship between illegal immigrants and low-skilled native workers and the demand for cheap labour by employers. There are many indicators that suggest that illegal immigrants can be complementary to low-skilled labour because any possible losses are made up by redistribution mechanisms. In economies where the use of illegal employment is risky because of a (relatively) high enforcement level or a tightly regulated labour market (like in the Scandinavian countries, see Hjarnø 2003), the probability of substitutive effects is very low. However, if a considerable part of the labour force consists of illegal immigrants, it is possible that native workers could be "crowded out" because the illegal aliens are dispersed into the "normal" informal economy (for example the United States, see Stobbe 2000: 150). Sociological and ethnographic research in Europe has found that only a small part of the illegal foreign workforce is employed in "regular jobs" in the informal economy. A very large group of illegal immigrants in Germany, for example, continually switches from one job to the next (Anderson 1999: 73). They very often work in ethnic businesses such as small shops and restaurants. Women in particular are employed in private households where they do the housework, care for children and elderly people, etc. (Bode 2001). Thus, the group of low-skilled natives do not suffer from employment losses resulting from illegal immigration as long as it does not exceed a certain level.

To conclude this part of the discussion, legal immigration has had no or only a small influence on wages (Djajić 2001: 155; OECD 1999: 238; for the EU see Epstein/Nitzan 2006: 704), whereas illegal immigration has potentially a positive impact in economic terms (Entorf 2002; Boswell and Straubhaar 2004) and does not replace legal work (Vogel 2003: 161). The

large group of highly skilled workers and the somewhat smaller group of employers benefit most (aside from the illegal immigrants themselves). Certain industries are probably more inclined to employ illegal immigrants than others, e.g. agriculture, private households, and some manual and service sectors requiring low skills.

## **2. Theoretical aspects of politics on illegal immigration**

Illegal immigration is not necessarily the result of weak border controls and very likely does not have negative consequences in economic terms (or it could be argued that at most it has very weak negative consequences). Politics does not reflect this situation but puts much effort into the defence against illegal immigration. The result of this political position is the “securitisation” of the discourse on illegal immigration in the European context and, at the same time, a reinforcing of the cause of the specific form of EU policies in this area. The *construction sociale d’une inquiétude* (Duez 2008: 179) produces negative attitudes toward illegal immigration, which is mainly seen as a problem of security and a potential source of danger (Huysmans 2006; Den Boer 1998). The politics of illegal immigration, therefore, are a very special type of political action where a stratum of individual and social perceptions supersedes objective interests and aims. The fuzziness of the empirical characteristics of illegal immigration opens up policies in this field to political manipulation. There are some theoretical reflections on how migration politics are formed. These approaches are outlined below. I concur with Boswell (2007a) in concluding that it is not the distribution of costs and benefits or liberal norms, but the self-coercing logic of gathering legitimacy that is the real causal factor in the politics of illegal immigration.

### **2.1 The political economy approach**

Generally, interest-group mechanisms are the favourite explanation for determinants of enforcement activities among economists (Hanson 2006: 918). An application of the theory of organised interest in political science was proposed by Gary P. Freeman, whose approach is derived from the public choice model of politics but is less restricted than the usual propositions. In this theory, the government is described as a unit of relatively independent actors maximising their own profit. Situations where strong interests do not exist are also included in the theoretical analysis. Freeman developed a theoretical framework that claims to explain the politics of immigration and which depends on two key variables: the costs and benefits of

immigration (or utility with negative and positive outcomes). It was formulated as a general theory of politics by Wilson (1980) and later adopted by Freeman (1995, 2006) for the politics of immigration.

The theoretical framework explains political processes in four scenarios arising from the different cost/benefit distributions (see figure 2). To clarify, the concept of costs and benefits is not financial; it refers to a detrimental or conducive calculation that evaluates politicians' aims of gaining electoral support. To further clarify, the term "political" can be added to the costs and benefits terminology.

Figure 2: Cost-benefit-distribution in immigration politics

	Concentrated Costs	Diffuse Costs
Concentrated Benefits	<b>Interest-group</b> politics	<b>Client</b> politics
Diffuse Benefits	<b>Entrepreneurial</b> politics	<b>Majoritarian</b> politics

Source: Figure following Freeman (2006: 230).

If both the costs and benefits of a policy are concentrated on certain groups, interest-group politics is the likely outcome (Wilson 1980: 368). The relevant actors have strong incentives to organise because they will gain or lose much, respectively, on account of this policy. The general public, however, does not see itself as affected by either the policy or its breakdown and cede the struggle for influence to the interest groups.

Temporary work visas for specific occupations may provide an example of client politics. Costs are concentrated because they must be borne by native professionals with the same occupation whose privileged position may be endangered to a certain degree when their benefit from a situation of urgent labour shortage in their industry declines. Temporary immigration of workers also offers concentrated benefits, namely for the immigrants themselves, but is also equally important for employers facing labour shortages in certain occupations or sectors. In contrast to permanent immigration, the society in its entirety is not affected as much by temporary immigration schemes because it does not have to pay for the long-term costs of immigration such as social welfare, and benefits will be widely distributed so that the individual amount is relatively small. Employers of this sector will exert influence on legislators and insist on temporary visas for their workers. Affected native workers or the trade unions representing them will try to influence the policy process in order to avoid the deterioration of their own employment conditions.

Concentrated benefits and disseminated costs will result in client politics, with small groups lobbying for a policy (or the abolition of a policy) in order to not compete with other groups because the widely distributed costs are not large enough for the broader public to take action (*ibid.*, 369).

The handling of illegal immigration in some countries comes close to the scenario described above. The employment of illegal immigrants in the agricultural sector is useful for employers, who save work costs. At the same time, there is no relevant group that has to compete with illegally residing fruit pickers. Only the costs in form of evaded tax payments and contributions to the social security have to be borne by the general public.

If a policy is implemented even though it creates diffuse benefits and concentrated costs, then entrepreneurial politics is the likely mode with which politicians may have pushed it through. They make use of a “latent public sentiment” (Wilson 1980: 370), try to undermine their opponents’ credibility, and refer to widely shared norms. Their efforts have to create enough legitimacy and political support to withstand opposition of the small, well-organised group. The present asylum system in most Western states resembles this situation. The low recognition rate (Holzer and Schneider 2002: 17-21) suggests that its main aim is to deter future foreigners from applying for asylum. Opposition to generous rules for admitting refugees must be generated by politicians who rely on the asylum-hostile public opinion to put the issue on the agenda and gather enough legitimacy for their proposals, which are detrimental to the small, cost-bearing, but (theoretically) well-organised group.<sup>2</sup>

If both the costs and the benefits are distributed over all or most members of the society, there is no incentive to form interest groups and politicians must try to organise a majority for their policies (Wilson 1980: 367). Non-immigrant visas for educational purposes are an example because young, well trained people can have a positive effect on the whole economy, but the costs of their training must be borne by the whole society too.

The usual objection to neoclassical economic theory put forward by social scientists does not fully apply to Wilson’s theory and Freeman’s application to immigration politics. In contrast to standard economic theories of regulation (Ogus 1994), Freeman admits indirectly that in addition to the objective distribution of costs and benefits, subjective perceptions of these interests are influential. These considerations apply to majoritarian politics where both supporters and their opponents invoke ideologies.

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<sup>2</sup> Asylum seekers are not well organised, but their supporters are. Churches, welfare organisations and charities are the refugees’ advocates and defend their rights in the political process.

The most important criticism of the political economy approach is that the state is “captured” (Hertog 2001: 235) by private interests (Boswell 2007a: 78). It is assumed that the official policies are the direct result of interest groups’ positions and their relative strengths. The role of the state in this theory is reduced to a broker who finds a compromise between the different positions. This understanding of the state’s role is questioned by other theories that assign an active and independent role to the state (Skocpol 1985). These theories are described in the next section as far as they concern immigration politics.

## **2.2 Liberal norms**

In the view of liberal theorists, the state is more than just an apparatus implementing immigration policies according to the distribution of interests in society, but is actually able to pursue its own policies. Secondly, the state is not a unified agency that has a single authority which formulates policies and another that executes them (Boswell 2007a: 79). The state is rather a conglomerate of different and separate agencies that often pursue contradictory aims. Rosenhek (2000: 53) contends that administrative bodies follow their own bureaucratic logic, resulting in blurred restrictive rules prescribed by politicians. Moreover, European states in particular transfer their competencies to other levels: “[A]ll European states are now shifting their responsibilities in the field of migration ‘up, out and down’”(Leun 2006: 312). The often-observed gap between restrictive intentions of the general public who wants to limit immigration and the (relatively) liberal reality in many states (Freeman 2002: 78) can be explained by the “liberal constraint” (Hollifield 1992: 94) in immigration politics. Politicians are not able to design immigration policies according to their ideas because there are institutions hindering this design. In modern, democratic states, which are the focus of this study, one of the most important barriers to restrictive immigration policies, for example in the field of the asylum system, is (constitutional) law that guarantees asylum applicants a minimum of rights. Another institution limiting the discretion of political actors is not the written law but the general state doctrine. Germany had to be open towards immigration because it could not carry out immigration-cutting policies at the expense of foreigners and immigrants given its history. “In European states, legal constraints in combination with moral obligations toward historically particular immigrant populations – not the logic of client politics – account for continuing (family) immigration despite general zero-immigration policies” (Joppke 1998: 292).

Cornelius and Rosenblum (2005: 113) define a third form besides interest politics and domestic institutions, namely an approach that focuses on security concerns, international institutions, and the role of labour-exporting countries. Soysal (1994) presumes that there are



national modes of including foreigners in the society that spread into the international sphere and re-influence national policies from there. The understanding and organisation of “membership” in the host society influences the mode of incorporation of immigrants in these states. These existing membership criteria are applied to new parts of the population. Therefore, “the prevailing principles, discourses, practices, and organisational structures that address membership are the source of variations in incorporation regimes across polities” (Soy-sal 1994: 36). Then, these patterns of incorporation are subject to a process of convergence on account of world-level factors such as transnational discourse and structures that supply new norms which supplement the national models of incorporation. These factors consist of various institutions: “The rights and claims of individuals are legitimated by ideologies grounded in a transnational community, through international codes, conventions, and laws on human rights, independent of their citizenship in a nation state” (ibid., 23). Hollifield (1992: 26-27) calls this “embedded liberalism”, where the national policy is integrated into a liberal network of inter- and supranational organisations, conventions, and norms.

### **2.3 Gathering legitimacy**

Freeman’s account can be criticised as too simplifying and of neglecting institutions, although it may provide the general grid of interests that forms the basis of immigration politics. It certainly influences policies, but does not explain each phenomenon in reality. Institutions, however, have a great influence on the chances of interests being pushed through in the political process. Even Wilson, and in his wake Freeman, keep the way open for institutional variables because they suggest that in the absence of concentrated costs and benefits (majoritarian politics), political actors are able to pursue their own agenda by forming coalitions in favour of their proposals.

The neo-institutionalist approaches point to institutions as an intermediating factor between private interest and public policies. The interests of societal factors are not ignored. They still exist, but their effectiveness is diminished by institutions that divert them into other policies or moderate their power. By introducing many relevant factors, the theory loses its neatness and makes predictions difficult (Boswell 2007a: 96). Moreover, it cannot explain why states take institutions into consideration at all instead of controlling or abolishing them. They seem to bow to the strength of institutions, although proponents of this theoretical strand do not suggest why the state should do this. It is plausible to turn to the motivation of the state in pursuing certain policies and refusing others.

Economic theorists of private interests have suggested that interest groups lend the state their financial and organisational power for maximising votes in elections (Noll 1989: 1261; Ogus 2004: 35; Hertog 1999: 235). In their definition, private interests do not encompass politicians' or bureaucrats' private interests (Ogus 1994: 72). Boswell (2007a) recommends taking the position of the state and not that of actors trying to capture the state. Similarly, institutions should not be regarded as intermediating variables or independent entities that the state seems to treat as given. The state and the actors representing it have to follow a distinct logic: they must seek legitimacy for their actions. A political system is only stable if it possesses sufficient legitimacy in the citizens' eyes. The function of the state and its maintenance is the reason why certain policies are chosen. This interpretation should not be confused with the hypothesis of liberal norms that restrict the state's options in immigration politics. Such liberal constraints can be important here insofar as a source of legitimacy dries out if these norms are offended. Legitimacy, however, is not limited to fulfilling liberal norms. Generally, it can be generated if the political subjects provide input legitimacy into the political process and the political actors have the right to pursue their policy because of this resource. The second source is output legitimacy, where the policy is justified in the eyes of the constituency because of its positive results (Easton 1965: 157).<sup>3</sup>

Beyond the openness of the concept, modern liberal political systems share certain forms of legitimacy that they try to guarantee: security, wealth, fairness, and institutional legitimacy (Boswell 2007a: 89-91). Guaranteeing security is a rather uncontested function of the state. It can be regarded as the basis of legitimacy that is secured in most Western countries. In migration policy, however, it plays an important role when it comes to illegal immigration and migration control. Accumulation of wealth is a function that has grown in importance since the 19<sup>th</sup> century. Immigration can lead to its increase (e.g. labour imported into Western Europe in the 1960s) but can also be seen as a threat (immigration of refugees). To guarantee fairness, the state has to ensure a just distribution of political and economic rights. This guarantee includes membership rights for immigrants and protection of the majority population at the same time. Institutional legitimacy exists if the public processes follow certain generally accepted rules that apply to all people ("Rechtstaatlichkeit"). This principle prevents exaggerated restrictive rules concerning foreigners and immigrants. Governments must obey these functional imperatives. Thus they will usually import foreign labour if it helps accumulate wealth; they will include minority groups in the economy to gain

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<sup>3</sup> Therefore, non-democratic regimes can possess a lot of legitimacy through both sources, e.g. because their rule is the result God's will or because they are able to guarantee a high standard of living (see Greven 2000: 194).

their members' approval; and they will be reluctant to curtail asylum applicants' rights if it violates basic norms. "But the point to reiterate is that these liberal constraints are not a function of exogenous factors, i.e. the characteristics of liberal institutions or the power of the business lobby. Rather, their power derives from their resonance with state interests, understood as the imperative to meet the preconditions for legitimacy" (ibid., 91-92).

### **3. Structure of the study**

Legitimacy is thus the central concept in immigration policy. How states should and do organise legitimacy for their treatment of illegal immigration in the form of legalisation is the subject of this study.

What factors allow individuals to assume that certain legalisations are legitimate? There is a single Eurobarometer survey (from 2003) which asked the attitudes of the population in fifteen EU member states (including Northern Ireland and Eastern Germany as separate geographical units) towards legalising illegal immigrants who had worked several years in the respective country. In the first part of this study, these data are analysed. The chapter starts with theoretical reflections on studies of attitudes towards immigration in general and applies them to the legalisations. Which groups of people are in favour of legalisation or militate against it? And how must politicians consider these factors when they seek legitimacy for their own policy proposals?

How politicians try to generate legitimacy for their policies is shown in the second part of this study. It investigates how argumentative strategies are used to legitimise or delegitimise legalisation. To this end, parliamentary debates are studied as a kaleidoscope of arguments that are used in the political debate on legalisation in France and Germany. The struggle for legitimacy and its national peculiarities are portrayed. The comparison of two countries allows an examination of the context-dependency of legitimacy and its consequences for the policy process.

An important element of both national discourses on legalisation is the alleged adverse effect of amnesties: Illegal immigration is not reduced by legalisation; even more illegal immigrants are in fact attracted. That argument is subjected to an examination in the third part of this study, which draws on enforcement data from the EU member states. This chapter fills a research gap because legalisation is often assumed to foster illegal immigration, although this has not been examined for Europe as yet, certainly because of a lack of data. Using apprehen-

sion data from 15 member states collected by the EU, it is possible to measure the effects of amnesties, although the results must be interpreted cautiously.

In summary, the three sections of this study try to shed light on the association between legitimacy of legalisation in the minds of the general public, the tactical gathering of legitimacy by politicians, and the practical relevance of one of the legitimating reasons for tight control policies.

## B. Attitudes towards legalisation of illegal immigrants

### 1. Introduction

Legalisation for illegal immigrants is a topic that has been on the agenda of several western European countries. Some have even carried out mass regularisation campaigns (see chapter D) that led to a considerable increase in the official number of foreign residents. In other countries such as France (see chapter C), the legalisation of illegal immigrants is a ubiquitous topic in immigration politics and is demanded by associations of foreigners themselves. Although there is much political pressure to stop or at least to be cautious with large scale legalisation, especially at the European level, the end of such measures is not yet in sight. Furthermore, all states face the challenge of illegal immigrants who have developed social and familial links with the host state and cannot be repatriated for various (legal and practical) reasons. The administration is forced to find individual solutions for these groups of illegal and quasi-illegal immigrants. Therefore, even if mass regularisation campaigns are not on the political agenda, the legalisation of illegal immigrants and related categories of foreigners is a continual problem in every national legal system, although with differing intensity.

It is the purpose of this study to investigate the reasons why some people are in favour of granting illegal immigrants a residence permit while others reject this idea, and why the distribution of positive and negative attitudes varies from country to country. The attitudes of interest in this chapter refer to legalisation in general, not to any specific large amnesty programmes. There is a relatively well-developed area of research that investigated a similar question, namely the attitudes towards immigration in general.<sup>4</sup> To aid this study, the basic research question (though adapted) will be used alongside other theoretical tools of these studies to analyse the reasons behind attitudes towards legalising illegal immigration.

Two main theoretical arguments compete with each other: the first is derived from economic theory, the second stems from social-psychological assumptions. According to the first argument, the respondents are *homines oeconomici* who subject their choice of attitude to a rational calculation (Key 1961: 223). Thus, they are against legalising illegal immigrants if they were to suffer losses through, for example, labour market competition. There are several hypotheses that belong to this sort of theory, but they are all based on the assumption of util-

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<sup>4</sup> Note that the object of these studies is attitudes towards *immigration*, not *immigrants*. The latter topic leads to questions of racism which is not necessarily in the focus of the research mentioned here.

ity-maximising individuals. Citizens' attitudes are correspondingly the result of objective interests.

The second argument focuses on racism and other individual features that influence the perception of immigration. Certain social, emotional, and cognitive predispositions make it more likely that people are against immigration (and accordingly, the legalisation of illegal immigrants).

In addition to these theories and other context variables, the study will also examine how state characteristics with regard to immigration influence personal attitudes towards illegal immigration. The premise is that a person in one country might think about legalising illegal immigrants in a different way than another person in a second country, although both individuals share the same characteristics in all other respects. Because of these theoretical reasons and econometric assumptions, a multi-level analysis, also known as hierarchical linear modelling (HLM), is the appropriate form to approach this problem. It is doubtful whether individual characteristics can explain (theoretically) all differences in attitudes towards legalisation because national circumstances (in immigration as well as other areas) are too different from one country to the other. In other words, the observations in a single country are not independent from the other observations in the same country. The data set analysed is not a random sample but a hierarchically stratified random sample. Bauer, Lofstrom, and Zimmermann (2000: 20), for example, assume that natives in Canada and New Zealand, which use qualification-based selection criteria for immigrants, are more favourable towards immigrants than nationals of states that have received mostly immigrants from less-developed countries, even when *ceteris paribus* is taken into account. Therefore, the study uses data from the Eurobarometer survey that was carried out in the old member states of the European Union (EU-15) from May to June 2003 and takes into consideration national characteristics.

The following section will firstly give a survey of the pertinent literature on attitudes towards immigration and closely related topics and describe the main theoretical lines. Secondly, I will present my own hypothesis on the factors that influence attitudes on legalisation of illegal immigrants. After that, I will describe the data set and give some descriptive statistics. In the fourth step, I will explain the operationalisation of these theories and the estimation model.

## 2. Literature Overview

Research suggests that to date there has been no study published that extensively analyses the individual-level approval or rejection of legalisation. There are also extraordinarily few studies concerning public opinion towards illegal immigration, and none at all regarding the legalisation of illegal immigrants. However, there is a group of studies that investigates attitudes towards immigration. They are of theoretical relevance for the question discussed here and are the starting point for all further hypothesising. Their theoretical approach can easily be transferred to this chapter because the processes of disapproving or accepting immigration and the legalisation of illegal immigrants are very similar. Both imply a preparedness to receive immigrants with all subsequent implications in terms of labour market, integration, and national identity.

Two of the three papers concerning attitudes towards illegal immigration in general have a focus on personal intrinsic values, while the third study also includes contextual factors. Ommundsen and Larsen (1997; 1999) regard attitudes towards illegal immigration as a product of political and social orientations, such as Machiavellianism, anomie, relative optimism-pessimism, and radicalism-conservatism. They find that all these measures are significantly correlated with attitudes towards illegal immigration, with the primary factor being scores on radicalism-conservatism. The association with individual values has been confirmed by Cowan, Martínez, and Mendiola (1997), whose results, based on a sample of 140 students, indicate that humanitarian-egalitarian values, stereotyping of illegal immigrants and, as a measure of racism, attitudes toward legal Mexican-Americans predict attitudes towards illegal Latino immigrants. These authors have not included socio-demographic factors, however. Lee, Ottati, and Hussain (2001) deviate from this concentration on psychological factors and report the results of two of their studies. The first has shown that economic concern and ethnic prejudice serve as predictors of respondents' attitudes towards California's Proposition 187, aimed at curbing illegal immigration. The second study additionally detected legal commitment as another factor contributing to attitude formation regarding illegal immigration. The focus of these social-psychological studies lies in individuals' psychological predisposition. They resemble in some respect the patterns of interpretation detected in the second chapter of this study (C), such as political values (conservatism of people inclined to accept traditional responses towards illegal immigration; Machiavellianism expressing pragmatic solutions or using underlying negative feelings against illegal immigration; legal commitment aiming at the coherence of the legal system, etc.). The scholars presented so far in this section highlight

individual psychological characteristics. However, the number of authors who take the economic view exceeds the number of studies from the socio-psychological perspective, as is obvious in the following discussion of the literature

Attitudes towards general, not just illegal, immigration have increasingly attracted the attention of economists and scholars of other social sciences in the last years (see table 1). Most researchers who study individuals' attitudes make underlying assumptions about human behaviour that are clearly influenced by the paradigm of strategic behaviour. Assuming labour market competition between native and immigrant groups, they predict that workers oppose immigration if immigrants have similar skill patterns and are therefore likely to substitute native workers on the labour market or bring down wages and standards of work conditions. This prediction can be shown in models of two economies that are endowed with the three production factors: capital, skilled, and unskilled labour, and which produce two commodities (Heckscher-Ohlin factor proportions model of trade; see Mayda 2004; O'Rourke and Sinnott 2006). If the endowment of unskilled labour is increased in one country at the expense of skilled labour, unskilled wages decline and skilled workers' wages rise. If the endowment of labour is changed in favour of skilled labour, the opposite effect is generated, with decreasing wages for skilled labour and increasing wages for unskilled labour. If the two countries are identical except for the skill mix, skilled labour will immigrate into the country with a higher share of unskilled labour and a lower share of skilled labour to benefit from higher wages there. Accordingly, unskilled labour will migrate to the country with a higher proportion of skilled labour and a lower proportion of unskilled labour to take advantage of higher wages in their labour market segment (Scheve and Slaughter 2001: 136). Take the example of the latter case: Immigration into richer countries from poorer countries is detrimental to unskilled workers already residing there because wages go down if the pool of unskilled labour grows. In this case, less-skilled workers should therefore have more negative attitudes towards immigration than their higher skilled colleagues if migrants are themselves low skilled, which usually applies to immigration into Europe. Skilled natives, on the other hand, have more favourable attitudes towards immigration because they normally do not have to compete with migrants in the labour market. Starting from this or similar models, Scheve and Slaughter (2001), Mayda (2004), and O'Rourke and Sinnott (2006) find empirical evidence in support of this hypothesis, and Citrin et al. (1997) at least partially.



Table 1: Studies on attitudes towards immigration

Authors	Data source	Investigated phenomenon	Influencing factorsa	Method of analysis
Brenner and Fertig 2006	ESS	Attitudes to immigrants	Education +/0 Living in city +/0 Parents' education +/0	Structural latent variable model
Dustmann and Preston 2007	BSAS	Attitude to further immigration	2 occupation groups (higher: -) 3 education groups (lower: racial concerns -, higher: welfare concerns -) Ethnic distance of immigrants - Labour market concerns - Benefit expenditure and welfare concerns - Racial or cultural prejudice -	Structural multiple factor model (panel)
Schneider 2008	ESS	Anti-immigrant prejudice	Individual level: Socio-economic position (occupation, income) – Concern about job change – Years of education – Living area 0 Contact with immigrants + Context level: Size of out-group – Non-western origin - GDP/cap + Cross-level interaction: Occupation status*size of out-group 0 Contact*out-group size +	Multilevel model
Facchini and Mayda 2007	ISSP and ESS	Attitude to immigration	Individual level: Concern about crime because of immigration - Concern about cultural impact of immigration - Years of education - Income -/+ Context level: Relative skill composition of natives to immigrants - Welfare variables: Labour tax rates – (high income indiv.) GDP/cap Progressivity of the tax system	Probit model with country-fixed effects
Hood III, Morris, and Shirkey 1997	ANES	Hispanic attitude to legal immigration in the USA	Concern about cultural loss – Degree of integration – Concern about tax burden – Education – Concern about job competition (-) Presence of illegal immigrants -	Ordered probit model
Tamura 2007	ESS (7 countries)	Attitudes to immigration	Concern about labour market effects 0 Concern about fiscal effects 0 Awareness of media reports 0 Foreign parent 0 Contact 0 Education +/- Contact +	Structural equation model
Dustman and Preston 2001	BSAS	Attitude towards ethnic minorities	Spatial concentration of ethnic minorities +	Simultaneous equations model

		(several measures)	Income – Education + Labour market status (0) Living in council house + Catholic +	
Fennelly and Federico 2008	National survey “Immigration in America”	Attitudes towards immigration policy	Living in suburban/rural area – Income 0 Education + Concern about national economic condition + Rightist ideology – Favourable attitudes towards immigration +	OLS regression
Bauer, Lofstrom and Zimmermann 2000	ISSP	Attitudes towards immigrants (various measures)	Country selects immigrants on basis of skills (instead of asylum) + (utility for economy) / - (immigrants take away jobs) Education + Employment status 0	Probit model
Gang, Rivera-Batiz, and Yun 2002	EB	Attitudes towards foreigners	Racial prejudice - Years of education + In/seeking employment/ retired – Living in area with many foreigners – Having children below 15 +	Probit model Decomposition analysis
Scheve and Slaughter 2001	NES	Attitudes to immigration policy	Occupation wage + Education years + Residing in high immigration area 0 Republican party identification 0 Conservative ideology - Racial tolerance +	Ordered probit model
Chandler and Tsai 2001	GSS	Attitude to legal/illegal immigration	Concern about national economy – (legal immigration only) Education + (legal only) Cultural threat – Political conservatism – Income 0 Fear of crime 0	Ordered logistic model
Malchow-Møller, Munch, Schroll, and Skaksen 2006	ESS	Attitudes towards immigration	Education + Income*concern about harm for poor (and other interactions of objective and subjective criteria) + Conservative ideology – Being unemployed/self-employed – (European immigration)	Ordered probit/probit models
Mayda 2004	ISSP/ WVS	Attitudes towards immigrants	Income 0 Education – Education*GDP + Rightist ideology – Economic concerns + Cultural concerns +	Probit model with country fixed effects
O’Rourke and Sinnott 2006	ISSP	Attitudes towards immigration	Highly skilled + Skill*GDP/cap + Skill*inequality - Patriotism – Chauvinism – Unemployed 0 Never lived abroad – International mobility + Catholic 0	Ordered logistic model with country fixed effects

			Protectionism -	
Hainmueller and Hiscox (2007)	ESS	Attitudes towards immigration	Education + Racism – Rejection of foreign culture – Fear of crime – Income + Contact + Living in minority area + Partisan right -	Probit model
Kessler and Freeman 2005	EB	Attitudes on immigration from outside the EU (too many immigrants/ no acceptance for work)	Education + Income (-) Unemployed 0 Economic concerns (-) Blue collar +/- (1997/2000) White collar +/- (1997/2000) Rightist ideology Prejudice -	Ordered probit models
Leong and Ward 2006	EB	Support for policies promoting social co-existence	Several value measures (mastery, masculinity, power distance, uncertainty avoidance, collectivism -)	Zero order correlations of means at the country level
Citrin, Green, Muste, and Wong 1997	NES	Attitudes to immigration/ welfare for new immigrants	Education + (if beliefs on impact not included) Rightist ideology – Low occupational status (-) Income 0 Union member 0 Negative impact (jobs/ taxes/ culture) of immigration –	Probit model
Verberk, Scheepers, and Felling 2002	SOCON	Attitudes to ethnic minorities	Education + Employment position +	Structural equation model
Martínez I Coma and Duval-Hernández 2009	Barómetro de Noviembre	Attitude to immigration in Spain	Education + Catholic – Employment status 0 Provincial immigration rate – Contact + % Moroccan immigrants – Fear of consequences –	Multilevel ordered probit/linear regression models

<sup>a</sup> In addition to simple socio-demographic covariates  
+ significant positive effect (in favour of immigration)  
- significant negative effect (rejection of immigration)  
0 insignificant  
ANES: American National Election Study  
BSAS: British Social Attitudes Survey  
EB: Eurobarometer  
ESS: European Social Survey  
GSS: General Social Survey (US)  
ISSP: International Social Survey Programme  
NES: National Election Studies surveys (US)  
SOCON: Social and Cultural Trends in the Netherlands  
WVS: World Value Survey

Other studies vary this theme by taking into account that economic self interest can be expressed through means other than labour market concerns. Hanson, Scheve, and Slaughter (2007) can empirically prove their hypotheses that high income tax payers in US states with

relatively generous welfare programmes and redistributive tax provisions are more opposed to immigration than their fellow citizens in states with less welfare spending. In a similar vein, Facchini and Mayda (2007) examine whether different welfare state types are influential in a multi-country survey on attitudes towards immigration. To this end, they introduce interaction terms of country-specific covariates and education levels of individuals. They find that people with high incomes oppose immigration in more redistributive countries where taxes are raised to even out income inequalities through transfers of social services and money. People who earn less, however, have more positive attitudes towards immigration because they do not have to shoulder the additional financial burden to the same extent as high earners. In contrast to these findings, individuals have less-restrictive sentiments towards immigration in countries with constant tax rates and adjustable per capita transfers, where citizens do not have to bear the burden of higher immigration.

Several other papers focus on various effects of certain socio-economic conditions that influence the choice of approving or rejecting immigration. Fennelly and Federico (2008), for example, investigate how rural residence influences sentiments towards US immigration policy on the basis of a US-wide data set. Gang, Rivera-Batiz, and Yun (2002) focus on economic self interest and ethnic concentration. They conclude that both labour market competition and residence in a neighbourhood with many foreigners increases the likelihood that individuals display a negative feeling towards foreigners in the European Union. Thus, they give the contact hypothesis a prominent role, which is often taken into consideration by introducing questions referring to the residential area in surveys on attitudes towards immigrants (e.g. into Eurobarometer surveys like in this case). Similarly, Dustmann and Preston (2001) concentrate on intergroup contacts by analysing the British Social Attitude Survey. The relationship between ethnic concentration and attitudes towards minority groups may be twofold: On the one hand, competition at the labour market level is tougher; on the other hand, contact reduces overly negative beliefs about the other ethnic group. The authors (*ibid.*, 370) argue that “straightforward regressions may lead to biased coefficients because of spatial sorting of individuals according to their attitudes towards minorities”.

Another important area of study, however, challenges the view that economic self interest, particularly in the form of labour market competition, is the main driver of negative feelings towards immigration. Hainmueller and Hiscox (2007) argue that mere competition with immigrants does not create negative attitudes. Higher-educated people, for example, are generally more in favour of immigration than lower-skilled individuals, regardless of immigrants' origin and skill endowment. This argument can be empirically proven by comparing

individuals' attitudes to immigration from different regions, among them countries that provide higher-educated migrants than others (Malchow-Møller et al 2006: 23). In the same vein, attitudes towards immigration are expected to be more positive if the respondents do not have to compete in the labour market (students, pensioners). Scheve and Slaughter's (2001: 141) results suggest that the effect of education is almost constant in both the labour force and the out-of-labour force subsamples.

Generally speaking, the interaction of labour market position, income, education, and beliefs and perceptions is the focus of this type of study because it is not trivial to discern the effects of these factors. Less-educated citizens are more likely to have negative feelings towards foreigners generally and are therefore more likely to disapprove of immigration. This result even holds true when it is possible to control for racist attitudes in certain data sets (e.g. Kessler and Freeman 2005: 840). Additionally, a larger proportion of educated people assume that immigration proves to be advantageous for the national economy. Brenner and Fertig (2006) obtain results that confirm this hypothesis and show that in addition to the respondents' education, their parents' education positively influences attitudes towards immigration. According to them, changes in labour market prospects play no role in contrast to ethnic and racial tolerance induced by higher educational attainment (ibid., 20). Malchow-Møller et al. (2006) also deny a significant effect of labour market position, because highly skilled people do not object to immigration of less-skilled people more than immigration of higher-skilled people, although the theory predicts that they should oppose the arrival of potential competitors more than the inflow of low-skilled people. Chandler and Tsai's (2001) results support this hypothesis. They find that people estimating the economic situation of the United States more pessimistically have greater anti-immigration sentiment.

Some of the studies presented above use national data, but most of them work with international data sets like the International Social Survey Programme (ISSP), the European Social Survey and, as in this study, the Eurobarometer. With these data sets, it is possible to compare the determinants of attitudes towards immigration in different countries. Some regular Eurobarometer surveys include questions on the deportation of illegal immigrants and their persecution; the determinants of attitudes towards legalisation, however, can only be analysed with the aid of the Eurobarometer 59.2 because it is the only international data set that contains a question on this issue.

### **3. Theory**

I will investigate the validity and explanatory strength of two competing theoretical approaches in addition to a country-level hypothesis, as already indicated in the introduction and as identified as the main theoretical discussion in the literature overview. I apply the theoretical hypotheses, which were developed for analysing citizens' attitudes towards immigration and attitudes towards legalisation of illegal immigrants. Therefore, I will describe how people should react to the legalisation of illegal aliens based on their underlying preferences according to the economic theory. Secondly, I will explain why this reaction is not the whole story and why intrinsic values could give us more insight into understanding the respondents' choices. For this alternative theoretical approach, I rely on social-psychological reasoning and the findings of the studies cited above to explain the causes of individuals' attitudes. Thirdly, I will extrapolate the economic reasoning from the individual to the national level and argue how nation-state characteristics could be responsible for some of the variance in the individuals' attitudes regarding legalisation. This step is necessary since the differences between countries are an additional focus of this analysis.

#### **3.1 Labour market hypothesis**

Legalisation is an administrative act whereby illegal immigrants step out of illegality and become legally residing foreigners who are in the possession of a (mostly temporary) residence permit. Although further conditions must be fulfilled to be granted a permanent residence permit<sup>5</sup>, immigrants are in most cases allowed to work and to bring in family members if they fulfil certain preconditions. Thus, this process aims at keeping legalised foreigners from working in the underground economy by having them find legal employment instead. Usually immigrants have worked prior to their legalisation because this is often the reason they came to Europe and a necessity for guaranteeing their survival. As illegal workers, they are already in competition with native workers to a certain extent. If they are allowed to do legal work, they are even more powerful competitors because they can oust their native counterparts in both the legal and illegal labour market. So natives are interested in containing immigrants within the illicit labour market and consequently in reserving the official work for themselves.

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<sup>5</sup> In the past, Italian and Spanish mass regularizations proved to be partially inefficient because many slipped back into illegality after the temporary residence permit expired because they were unable to find legal employment for a longer period of time (Givens 2007: 72).

Legalisation of illegal immigrants is therefore the same thing as immigration of low-skilled workers from the same countries who are in possession of work permits<sup>6</sup>. Thus, they begin to compete with natives and legally residing foreigners in the labour market. However, competition is limited to certain sectors of the labour market with typical jobs for formerly illegal immigrants. According to their formal and informal level of qualification, these are occupations where high skill levels are not necessary, such as production helpers and simple services in the hotel and restaurant industry, in commerce, or cleaning. They work in the lower segments of the labour market because their skills are not appropriate for the European labour markets (e.g. language problems) and their skill level is often lower than the European average because many illegal immigrants come from developing countries with precarious educational systems. In countries where economic sectors that absorb illegal immigrants exist, the survival of firms that would not be otherwise competitive is guaranteed (for France, Costa-Lascoux and De Wenden-Didier 1981: 354; for Italy, Calavita 2005: 61; for the United States, Gibney 2000: 7; for the UK, Ram, Edwards, and Jones 2002).<sup>7</sup> Highly skilled immigrants, on the contrary, can often benefit from liberal admission rules (Hanson 2007: 16).

Beyond these caveats, illegal immigrants concentrate in low-paid segments of the labour market where they cause an increase of the labour force. The higher supply of labour leads to lower wages in this segment of the labour market or to a higher risk of unemployment for the original workers (Borjas, Freeman, and Katz 1997: 67). Therefore, low-skilled natives of each country should oppose the legalisation of illegal foreigners. This expected reaction is the standard rationale supported by all economists in this field, as shown in the overview of previous research.

However, the picture is unclear when it comes to empirical examination of the effect of immigrants on the labour market (Borjas, Freeman, and Katz 1996: 250). The results of relevant studies are unstable and subject to econometric shortcomings (see e.g. But and Card 1991: 221). While some find negative effects for low-skilled natives, others are not able to find any effect on the labour market, e.g. Pischke and Velling (1997) for Germany. Economists are generally not very convinced that this connection exists. Most empirical studies come to the conclusion that the effects of immigration on natives' wages are, if at all, very small (Gang and Rivera-Batiz 1994). In sum, "economic theory is equivocal, an empirical estimate in a variety of settings and using a variety of approaches have shown that the effect

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<sup>6</sup> This applies to family members who entered the EU through family reunification often after a certain waiting period, and in many countries asylum seekers whose residence became fixed.

<sup>7</sup> A detailed analysis of the impact of illegal foreign workers on the demand for legal workers shows that there are very small negative effects in some sectors (somewhat larger in agriculture) but is complementary in other sectors like services (Venturini 1999).

of immigration on the labour market outcome of natives is small” (Friedberg and Hunt 1995: 42).

And what about higher-skilled workers who work in occupations that are normally not directly affected by legalised aliens? Most studies on attitudes towards immigration assume that they profit from reasonably limited immigration to a certain extent because their labour is increasingly demanded in a larger economy. That attitude reflects the positive relationship between the increase in the number of low-skilled workers and the earnings of workers in higher segments of the labour market. Scheve and Slaughter (2001: 136) argue that skilled workers should be in favour of policies that raise immigration if people think that immigration triggers wage effects. Borjas (1995: 10-11), moreover, assumes that immigration must have a negative effect on the average wages in order to influence the total economy positively (see Hanson [2007: 19] for an empirical assertion of this theoretical argument).

Besides that standard argument, highly skilled people profit in another way from illegal immigrants in that they consume more locally produced goods and services such as housekeeping, gardening, child care, cleaning, and other labour-intensive, locally traded services that are cheaper in areas of higher immigration concentration (Cortes 2008). There is much evidence that housework, such as caring for children and elderly, cleaning, and gardening offer a comparatively large number of jobs for (female) illegal immigrants (Bode 2001; Krieger et al. 2006; Sole et al. 1998: 334). Usually, people with higher incomes use these services. Such activities are generally carried out without reporting it to the financial authorities or paying social security to save costs for the employer (Anderson and Phizacklea 1997).

### **3.2 Income and social spending hypothesis**

There is also a second reason why higher-skilled people may find it better if immigrants remain illegal. When illegal immigrants become legalised, they are also eligible for social benefits such as unemployment benefits, old age insurance, social assistance, health insurance, etc.<sup>8</sup> When illegal immigrants join the group of low-skilled people with low incomes, the number of potential recipients of state benefits increases. As a result, social-benefit spending also rises. Because wealthier people contribute disproportionately to these social schemes, their tax burden or contributions to social security increase. They themselves do not profit from increased contributions to the tax system or the social insurance schemes because these are only used to balance out the increased financial demand that results from a higher

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<sup>8</sup> In some countries, even immigrants without residence permit are eligible for some of these public services, especially health service and education (children), see PICUM 2002. 2003a, 2003b.



number of recipients of state benefits or public services. People with higher incomes must therefore fund the rise in social spending caused by legalised aliens. Thus, it is in their interest to restrict the number of welfare recipients and to disapprove of legalisation. Facchini and Mayda (2007: 12) use this argument to explain why high-skilled people in redistributive social systems reject the liberalisation of immigration. Likewise, Tamura (2007) and Hanson et al. (2007) control for individual anxieties regarding public finance.

Although highly skilled people in superior labour market positions have a less-developed predisposition to reject legalisation than people who are more exposed to labour market competition with legalised foreigners, their disapproval rate should decline in interaction with the amount of tax and contributions to social schemes that they have to pay. Thus, people with the same socio-demographic characteristics should differ in their approval of legalisation according to the specific tax burden they must bear in each national system.

### **3.3 Social-psychological explanations**

The topic of this study is different from that of other studies because illegal immigration is *per definitionem* unlawful and therefore may cause negative feelings against the illegality of this action (Ommundsen and Larsen 1999: 1332). This response may distort the effects of the labour market hypothesis because the rational calculus of the respondents is influenced by their respect for legitimate norms and rules. Therefore, the aspect of illegality is a gateway for individuals with certain values to form attitudes towards the legalisation of illegal immigrants. This result intensifies the general tendency to judge immigration on the basis of intrinsic values and social norms. In this respect, taking personal values into consideration, as in the studies cited so far, is especially important in this study.

Although values are important as a decisive factor for attitudes towards legalisation, it is difficult to conceptualise them in an exact manner and to define their effect. Many researchers who look into attitudes about immigration include controls for education because they assume that educated people are less susceptible to prejudice against foreigners and other irrational feelings that influence attitudes towards aliens (Facchini and Mayda 2006; Gang et al. 2002; Kessler and Freeman 2005; Scheve and Slaughter 2001; Brenner and Fertig 2006; Hanson et al. 2007; Fennelly and Federico 2008). Some of them explicitly include racial attitudes, prejudice, and fear of crime as control variables (Malchow-Möller et al. 2006; Kessler and Freeman 2005; O'Rourke and Sinnott 2006; Gang et al. 2002; Fennelly and Federico 2008; Chandler and Tsai 2001). Social psychologists have different explanations for "antipathy accompanied by a faulty generalisation" (Pettigrew 1980: 821), a standard definition of

prejudice. The two key elements of this construct, emotional judgment and irrationality, are apt to conceptualise “the other” outside of rational calculations based on self-interest. As a negative prejudicial attitude towards a group and its individual members (Myers 1999: 336, 348), it is the third factor that could explain attitudes towards legalisation since, even before one starts calculating whether legalisation would be beneficial, one already has certain assumptions about the relevant group of people and their actions and impact. Because people eligible for legalisation are typically illegal foreigners, it seems reasonable to suspect that racial prejudices are effective predictors of attitudes towards legalising illegal aliens. This aspect can be measured directly using the Eurobarometer data set.

To explain why education should have a positive influence on attitudes towards immigration and illegal immigrants, one has to go deeper into social-psychological theorising. The empirical studies mentioned above do not explain the link between education and attitudes towards immigration or immigrants, but include it without justifying it in a concise manner. Generally, it is assumed that education makes people more open-minded and receptive to new experiences.<sup>9</sup> Therefore, educated people are less susceptible to prejudices or their prejudices are minimized. This direct effect of education on prejudice is the result of greater knowledge (for example about immigration), cognitive skills (ability to comprehend complex phenomena), and values that are imparted in schools (Selznick and Steinberg 1971). Higher-educated people therefore reject simplifying arguments because they recognise that such opinions are clouding the truth or are entirely wrong. Moreover, people with many years of education are more intensively socialised in a liberal environment. Schools are one of the state’s most efficient instruments to personally influence its citizens.<sup>10</sup> If the state propagates an inclusive model of citizenship that recognizes immigrants as a legitimate part of the society, the official education policy will try to propagate this model. It is likely that these endeavours bear more fruit the longer school attendance lasts.

On the other hand, higher-educated people respond more often according to social norms than less-educated people, especially when confronted with simplifying questions (Jackmann and Muha 1984: 753). They don’t let pollsters “pull the wool over their eyes” (Weins 2004: 17). This indirect effect of education is driven by the same factors that may lead to a true change of internal orientations (knowledge and cognitive abilities), so that it is finally not distinguishable by a simple survey whether education truly changes the personal belief system or only contributes to hide one’s prejudices.

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<sup>9</sup> See Jackman (1978) and Jackman and Muha (1984) for attempts to explain the relationship between education and prejudice.

<sup>10</sup> Another instrument in certain regional and historic environments is military service.

In addition to these individual-level hypotheses, group-level processes can also be attributed to biased attitudes towards groups of people (for an overview see Quillian 1995). The theory of perceived threat is one of the most important theories to explain prejudicial attitudes towards certain groups and their members and resembles the above-described theory of economic interest (Bonacich 1972). The main difference between the economic and the social-psychological theories is that the latter regards *perceived* threats as decisive and not objective, calculable cost/benefit distributions.<sup>11</sup> Both effects are similar, and it is left to the empirical design to discern between a given objective constellation of interests and subjective beliefs in these interests (with income as a second objective category in addition to labour market position, which is moreover correlated with the occupational status). Here, too, those who are competing directly with legalised immigrants are supposed to be the most hostile towards legalisation. But indirect forms of threats are also possible, for example depicting illegal immigrants as scapegoats for poor personal conditions or socio-economic problems of the whole country. This scenario could also apply to those who are better off but again, the lower strata of the society will have more reasons to blame illegal immigrants for their own difficult circumstances.

### 3.4 National level characteristics

Weins (2004: 43) warns of aggregations with regard to locations of minority concentration because of their loose association with personal experiences. It is not advisable to include the national foreigners' quota as a relevant context variable at the level of countries because it neither indicates each respondent's contacts to foreigners nor represents foreigners' policies and the debate on immigration at the national level. Therefore, systematic differences with regard to immigration policy cannot be measured by the quota of foreigners in a regression analysis. Thus, none of the previously mentioned comparative studies included the foreigners' quota in their estimations (section 2; see also Giles 1977). Smaller areas are necessary to test the impact of the contact hypothesis. Additionally, it is not possible to use the foreigners' quota as a measure for the general sentiment of the population on their country's exposure to immigration.

However, the income effect should be stronger in states that have developed welfare systems and a high level of tax-financed services. People with high incomes are expected to

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<sup>11</sup> Chandler and Tsai (2001) as well as Espenshade and Hempstead (1996) have included economic threat in contrast to objective constellations of competing income groups in their analysis. The former found a significant effect on sentiments against legal immigration but not on illegal immigration. Comparable indicators are not available in the present Eurobarometer data set.

display high scores of negative attitudes towards legalisation in those countries that have large redistributive social systems and a high ratio of government expenditures to gross national product.

As a control variable, a variable is included that indicates whether the relevant state has carried out large-scale legalisation programs in the past. It seems reasonable to assume that experiences with amnesties are influential when it comes to personal views on legalisation of illegal immigrants. In this sense, it is a better criterion for immigration policy than immigration quotas. Prior legalisation may lead to a certain feasibility of amnesties because they have found acceptance in the past by (a part of) the political class and also contribute to the opinion that amnesties are a regular instrument in immigration policy. On the other hand, experiences with amnesties could also lead to the perception that this instrument failed to be successful if it did not solve the country's problems concerning immigration.

#### **4. Operationalisation**

The labour market position is the measure for the competition hypothesis (for this and all other variables see table 2; for their coding and the exact wording of the dependent variable see also annex A). The current status as unemployed, without employment for various reasons (voluntarily not employed, retirement, student, etc.), self employed, employed in a high position, or employed in a low position is taken into account. For the last two variables, several occupations are summarised according to similarity in labour market position (e.g. qualification). This categorization results in a nominal scale of five groups. It is assumed that personal labour market status is decisive even if the respondent lives together with a partner who may have a different occupational status.

The income and social spending hypothesis is operationalised by a set of individual-level variables and a country-level variable, which are assumed to interact. Income is measured by the Eurobarometer survey in several steps that I combine in several categories. Because only the household income was questioned in the Eurobarometer survey, I include a dummy variable that indicates whether the respondent is married or lives together with a partner. If this dummy is equal to zero, it is the personal income of the respondent; otherwise, it is his or her personal income together with the partner's income or their sole income. Additionally, the social spending level in each country is included in the estimation equation. This indicator provided by Eurostat measures the expenditure on health services, old-age pensions,

unemployment benefits, social assistance, etc. as a percentage of GDP. Measuring the effect of the social system in this way follows the approach of other studies cited above and has the advantage of making the national systems comparable. The average burden in taxes and social security contributions of higher income groups are not measurable. The interaction effect is modelled in the form of a hierarchical linear model that will be explained below (section 6).

Variables describing personal disposition are education and racism. Education is the centred age when full-time education stopped. If the person interviewed is still in education, the current age is regarded as the age when education ended.

Table 2: Theoretical concepts and their operationalisation

	<b>Individual-level variables</b>	<b>Country-level variables</b>
<b>Dependent variable</b>		
	Attitude towards legalisation: 0 (against) 1 (for)	
<b>Independent variables</b>		
<i>Competition hypothesis</i>	Employment status: employed yes/no Five profession groups:	
<i>Income and social spending hypothesis</i>	Income: 5 classes	Level of social spending: percent of GDP
<i>Personal values</i>	Education Racism-index Perception of threat	
<i>Control variables</i>	Age: number of years living Sex: m/f Area: rural, small/medium town, large town	Mass legalisation carried out: yes/no

Source: Eurobarometer 57.2, Eurostat

The second personal variable is composed of a racism index. The four racism groups were generated by question Q.17 of the questionnaire (see annex B): The number of items that were answered in a way showing negative sentiments towards minority groups were added up so that higher values mean more favourable attitudes towards minorities. This variable reveals the respondents’ opinion of the place of people belonging to minority groups in terms of race, religion, and culture within their society. Because this question is aimed at attitudes towards minorities, one could raise the objection that it is not only about immigration. However, in most EU-15 countries national minorities are negligible and it is reasonable to assume that the

people had immigrant groups in mind rather than long-established minority groups.<sup>12</sup> This assumption is especially likely because the three dimensions of race, religion, and culture are always mentioned together. Therefore, a French respondent should have in mind an Arabic-speaking Muslim instead of a Breton, for example. Furthermore, most items refer indirectly to immigration because of the process orientation of many statements.<sup>13</sup> Because this question has twelve items, I calculated Cronbach's Alpha to estimate its fit for measuring the construct *racism* (Schneider 2008: 57).<sup>14</sup>

I included age and sex as control variables following common standards in opinion research to control for cohort and gender effects. Additionally, it may be important whether the respondents live in a rural area or village, in a small or middle sized town, or, third, in a large town. Comparable variables proved to be influential on attitudes towards immigration. This effect is supposed to result from a different probability of coming into contact with foreigners (whose share of the population is larger in cities) and the subsequently changing attitudes if one has contact with foreigners. It is not clarified theoretically, however, whether contacts with foreigners trigger more favourable attitudes towards them or more hostile ones. Brenner and Fertig (2006) hint at the problem that the choice of residence may be endogenous because the decision in favour of a multicultural environment is caused by the same factors as positive attitudes towards immigrants. In the Eurobarometer, the exact area of residence cannot be determined, so there is only a loose correlation between location and immigrants' quota. The choice for a city does not imply that these people live in a multicultural district and usually depends on other criteria such as job availability, family status, etc., although inhabitants of cities certainly have more contact with foreigners in their daily lives. The choice of their place of residence can shift people's attitudes towards a more tolerant perception because unrealistic prejudices prove to be unfounded; on the other hand, a high concentration of immigrants can cause and strengthen the feeling of being threatened by foreigners (Dustman and Preston 2001: 370). The empirical work is split into studies showing positive, negative, or no effect through contact between natives and immigrants (Rothbart and John 1993). This variable is important in theoretical terms, however, because it contradicts the economic competition hypothesis if high concentrations of immigrants in certain areas are correlated with less-negative attitudes towards this group.

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<sup>12</sup> Like Danes, Sorbs, and Friesians in Germany.

<sup>13</sup> e.g. statements 4, 5, 6, 7, 8, and 9 (see Annex 2).

<sup>14</sup> Cronbach's alpha is relatively high: 0.73 for the pooled data. The values per country range from 0.63 (Sweden) to 0.81 (Germany).

One could argue that including racism in an equation with attitudes towards legalisation generates endogeneity because both views on minority groups and legalisation of illegal immigrants are driven by the same factors. However, I regard this possibility as relatively small because views on receptiveness of the national society and foreigners' ability and willingness to integrate themselves into the receiving society are quite distinct from the question of whether illegal immigrants should be legalised after several years of work.

## 5. Data description

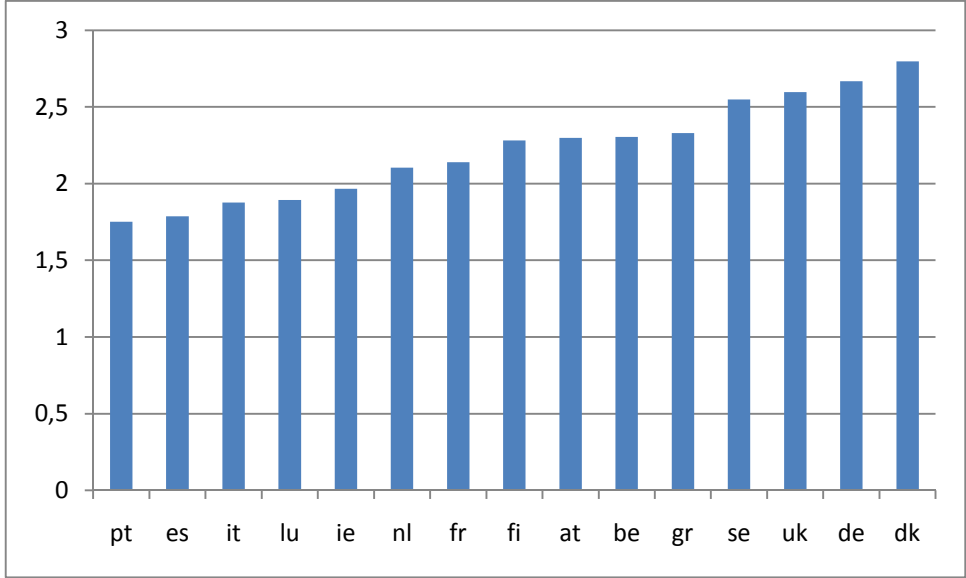
Figure 1 gives an overview of the mean attitude towards legalisation of illegal immigrants by the countries investigated in this chapter. The answers from people who completely agree or tend to agree with the proposition to legalise the status of illegal immigrants after several years of work are coded 1 and 2, respectively; answers of those who tend to disagree or completely disagree are coded 3 and 4 ("don't know" excluded). There are relatively large differences between countries, with values ranging from 1.75 in Portugal to 2.8 in Denmark (higher numbers means higher rejection of legalisation), which justifies investigation into the reasons for these national deviations from the European average.

One could construct approximately three groups: The populations in countries from Portugal to Ireland in Figure 1 are legalisation-friendly, while citizens of Sweden, the United Kingdom, Germany, and Denmark are extraordinarily hostile towards legalisation, with a middle group from the Netherlands to Greece. There are some notable patterns. Three southern member states, namely Portugal, Spain, and Italy show relatively favourable opinions on legalisation. The fourth southern state, Greece, however, is in the middle group.<sup>15</sup> All four countries have conducted mass legalisation programmes in the past, above all Spain and Italy.

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<sup>15</sup> Greece has seen an extraordinarily rapid rise in legal and illegal immigration from the early 1990s, mainly from Albania (Kömür w.y. 44).

Figure 1: Average attitudes towards legalising illegal immigrants in the European Union (EU15; weighted)



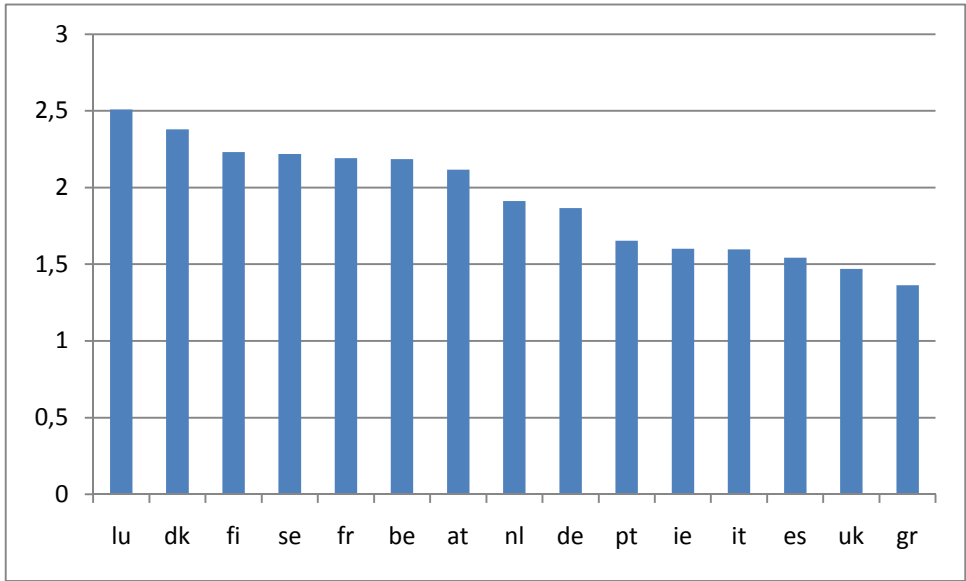
Source: Eurobarometer 59.2, own calculation (weighted).

The higher average in Italy and Spain could hint at the fact that illegal immigration and legalisation are accepted in these countries to some extent, as shown by frequent amnesties (Ommundsen and Larsen 1999: 1338). One could argue that Italians and Spaniards are accustomed to amnesties and therefore regard the legalisation of illegal foreigners as normal. It is not clear, however, what came first: the chicken or the egg. Perhaps both effects are not separable and influence each other mutually.

On the other hand, two of the three Scandinavian states in the sample belong to the group of those countries whose populations oppose legalisation most fiercely. Finland is in the middle group, where it exhibits a similar average attitude to Austria, Belgium, and Greece. Belgium, which carried out a major legalisation campaign in 2000, belongs to the middle group together with Greece that is an amnesty-experienced country too. The fact that the Scandinavian and western European countries have many opponents of legalisation could be explained by the insistence on conformity to the law, which is comparatively pronounced in these societies in contrast to the Mediterranean countries (Coenders, Lubbers, and Scheepers 2003: 6). Furthermore, citizens of Mediterranean countries (except for Greece) and Nordic countries, on the other hand, are less resistant to a multicultural society and the view that there are limits to multicultural society (ibid., v).



Figure 2: Concern about illegal immigration in the European Union (EU15)



Source: Eurobarometer 59.2, own calculation (weighted).

Figure 2 shows an interesting effect. It displays the mean of responses to the question of how much the respondents feel concerned about illegal immigration (a lot of concern, some concern, little concern, no concern; “don’t know” excluded; coded from 1 to 4). High values indicate little concern while low values mean that the people are relatively concerned about illegal immigration. The populations in Spain, Italy, Ireland, and Portugal, which are legalisation friendly (see figure 1), are also very concerned about illegal immigration. The same applies even more to the United Kingdom and Greece, whose nationals are quite reluctant to legalise illegal immigrants. In stark contrast to the UK, Denmark and Sweden’s populations are not much concerned about illegal immigration but were cautious with regard to legalisation.

Thus, there seem to be different patterns of how to respond to the perception of illegal immigration as a problem. While the population of some states appears to be in favour of legalisation (Spain, Italy, Portugal, Ireland), others reject this instrument (UK, Greece, to a lesser extent Germany). While some populations are generous and pronounce themselves in favour of legalisation even though they are not much concerned by illegal immigration (most extremely Luxemburg), others appear to be petty about legalisation although they are not concerned by illegal immigration (Denmark). Comparing figure 1 and 2, one wonders whether the concern of illegal immigration has different consequences regarding attitudes towards legalisation or whether there are other, more important factors influencing the response pattern.

There are no clear results concerning education. Most remarkably, the percentage of less-educated people (aged up to 15 when leaving school) who are in favour of legalisation is somewhat higher than the percentage of those aged between 16 and 19 or 20 and older who state positive attitudes towards legalisation. This result contradicts the original hypothesis that less-educated people are more exposed to competition with former illegal immigrants and tend to have more prejudices against foreigners. At least the group with highest education has a bit more favourable attitudes towards legalisation than the middle group.

Similar inconsistent figures result with regard to attitudes broken down by income level. To this end, the income groups have been merged into four groups. The distance between the lowest and the highest earning group is even higher than that between the lowest and the highest educated group. This is true for all categories of attitudes towards legalisation. The middle groups (accordingly) are in between both extreme groups.

There are no clear results concerning the influence of location. Inhabitants of rural areas declare themselves more often completely against legalisation than inhabitants of large towns. This distribution is reversed if one regards respondents who tend to be in favour of legalisation. This finding also gives no indication whether or not the location influences attitudes regarding immigration and immigrants.

Surprisingly, there are also no clear differences when it comes to occupational status, which should measure the validity of the competition hypothesis. If one compares the most extreme groups which comprise company owners; employed professionals such as lawyers, architects, and the top management (LAB4); and the unemployed (LAB1), respectively, there are some slight differences, which indicate that people in higher labour market positions tend to agree with legalisation more easily than their unemployed fellow citizens.

The racism index, however, does detect changes in attitudes towards legalisation. The differences are relatively strong, so one can assume that views on immigrants determine attitudes towards legalisation. The differences are consistent in almost all groups and can be found in all countries.

The descriptive analysis does not show a clear picture regarding the above theories, except for racist prejudices, whereas national differences are comparably large. One must employ multivariate methods to see whether these factors are influential there.

Table 3: Attitudes towards legalisation and individual characteristics (percentage)

	<b>Completely agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Completely disagree</b>	<b>Total</b>
<b>Education</b>					
<b>Very low</b>	28,2	39,9	17,2	14,7	100
<b>Low</b>	22,9	41,4	19,9	15,8	100
<b>High</b>	24,6	39,6	18,9	17,0	100
<b>Very high</b>	24,8	40,4	18,9	15,9	100
<i>Pearson chi2(6) = 46,1421 Pr = 0,000</i>					
<b>Income</b>					
<b>Very low</b>	26,2	40,7	18,5	14,6	100
<b>Low</b>	24,4	40,1	19,0	16,5	100
<b>High</b>	24,7	38,2	21,6	15,6	100
<b>Very high</b>	21,7	39,7	19,6	19,0	100
<b>Total</b>	24,2	39,7	19,6	16,5	100
<i>Pearson chi2(9)=34,2410 Pr = 0,000</i>					
<b>Location</b>					
<b>Rural</b>	24,2	41,4	19,4	15,0	100
<b>Small or middle sized</b>	24,4	40,1	19,0	16,5	100
<b>Large town</b>	26,6	38,6	19,2	15,7	100
<b>Total</b>	24,9	40,4	18,9	15,9	100
<i>Pearson chi2(6)=19,7328 Pr = 0,003</i>					
<b>Labour market status (LAB1 to LAB5)</b>					
<b>Unemployed</b>	21,5	38,3	19,6	20,7	100
<b>Inactive</b>	25,5	40,5	18,3	15,8	100
<b>Self-employed</b>	26,2	41,1	18,5	14,2	100
<b>Employed in high position</b>	22,8	40,4	20,5	16,2	100
<b>Employed in low position</b>	24,3	39,5	18,7	17,5	100
<b>Total</b>	24,4	40,1	19,0	16,5	100
<i>Pearson chi2(12)=33,3422 Pr = 0,001</i>					
<b>Racism</b>					
<b>Very positive attitude</b>	34,3	44,3	13,8	7,7	100
<b>Positive attitude</b>	25,1	44,7	18,5	11,7	100
<b>Negative attitude</b>	22,7	37,5	20,1	19,7	100
<b>Very negative attitude</b>	12,1	25,4	26,3	36,2	100
<b>Total</b>	24,8	40,4	18,9	15,9	100
<i>Pearson chi2(9) = 1,0e+03 Pr = 0,000</i>					

Source: Eurobarometer 59.2, own calculation.

## 6. Estimation model

Hierarchical linear models (HLM) or multilevel models are apt and necessary for layered data such as surveys, in which individuals are the first layer or level and, in the case of the Eurobarometer, countries are the second level. The elements of a stratified sample are not independent from each other, in contrast to a pure random sample. Two elements of the same unit of the second level share more common characteristics, observed and unobserved, than two elements of two different second-level units. Multilevel analyses consist of two steps. In the first step, regressions are estimated for every unit of the first layer, here for each country. Therefore, intercepts and coefficients of these regressions differ from each other. The differences in intercepts and regression coefficients are then explained by features of the second layer in a second regression analysis. Because the error terms within each level two unit of the sample are correlated, one has to estimate a random effects model (Albright 2007: 5).

Of course, it is possible to include aggregate characteristics in common regressions. In our case, this would imply one or several additional variables relating to the countries as sampling units with 17 different values each. This would imply, however, that the effect of individual predictors is the same in all groups of the second level (same slopes and intercepts). Furthermore, significance tests rely on the total number of cases (theoretically around 16,000) instead of taking into account that the number of degrees of freedom is much smaller for aggregate variables (Klein 2004). The error terms are very likely to be correlated because the observations are not independent as a result of the sampling structure.<sup>16</sup>

Clustering standard errors by groups is an unsatisfactory solution because multilevel models produce an individual-level error term and, additionally, a second one for the country level. Furthermore, and contrary to normal clustering, it allows not only different standard errors but also different intercepts and coefficients for each group. For the same reason, multilevel models are superior to slopes as outcome analysis where the coefficients of a first estimation at the individual level are used as dependent variables that are explained by second level characteristics.

The multilevel approach is thus the best solution available to account for the different effects that hierarchically organised data imply. In general, one can discern between three different effects. First, the individual effect of respondents' characteristics on their responses, e.g. their income; second, the context effect of characteristics in the second layer, for example, the amount of social spending in country *X*, on the dependent variable (attitudes towards

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<sup>16</sup> For a comprehensive critique of common but less suitable approaches see Cronbach (1976).

legalisation of illegal immigrants); third, cross-level effects between variables of the two layers, which lead to complex dependencies because a second layer variable can influence the effect of a first order variable on the dependant variable. The state-fixed features of social spending, for example, could influence the effect of individual income on attitudes towards legalisation.

Context effects are reflected in a change in the intercept. If country *A* has a higher level of social spending than country *B*, one would generally expect that the observations and the regression line of *A* are situated above those of *B*, i.e. respondents living in *A* are less inclined to endorse legalisation. However, the effect of an individual feature, expressed by the regression coefficient, remains constant over all units of the second layer, i.e. an *x* change in income leads to a *y* change in probability to endorse or reject legalisation in countries *A* and *B*.

In contrast to mere context effects, cross-level effects do not change the intercept, but instead the slopes. A higher level of social spending in country *A* increases the individual income effect of people in *A* more than in country *B*, i.e. the coefficient if the individual income in *A* is larger than in *B*. The individual effect of income is sharpened or ameliorated according to the share of social spending in the GDP.

It is possible to estimate regressions with random intercepts (context effects) or random slopes (cross-level interactions) or both. First of all, a fully unconditioned model is estimated in order to compute the intra-class correlation. The intra-class correlation indicates the correlation of a certain variable between two elements of the same unit. It directly shows how much of the variance is caused by differences between the units of the second layer (e.g. expenditures on social schemes) in contrast to differences between elements of the same group (e.g. individual income). This calculation is done to decide whether it is reasonable at all to proceed to more complex multilevel models because there are significant differences between observations in various countries. If this random effects-ANOVA shows that the results vary across the units of the second layer, one must allow for random intercepts in the next step. The regression models used in this study are described as follows:

The realisation *Y* of the independent variable for individual *i* in country *j* is conceptualised as a function of the constant intercept  $\beta_0$  for country *j* and the corresponding residual  $\varepsilon_{ij}$ .<sup>17</sup>

$$(1) \quad Y_{ij} = \beta_{0j} + \varepsilon_{ij}$$

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<sup>17</sup> I use the notation from Raudenbush and Bryk (2002).

This means the outcome  $y$  for respondent  $i$  in country  $j$  is the average attitude towards legalisation in country  $j$ , corrected by an individual error term  $\varepsilon_{ij}$ . But because certain characteristics of the country where the individual lives may influence the whole subsample, one must include a country-specific error term. The intercept can then be written as

$$(2) \quad \beta_{0j} = \gamma_{00} + u_{0j}$$

where  $\gamma_{00}$  is the total mean of the sample over all units of the second layer if the independent variables are centred (taken off their average), i.e. the average of the dependent variable. The residual  $u_{0j}$  denotes the deviation of the mean in country  $j$  from the general mean, i.e. the effect of country  $j$  on the dependent variable  $Y$ . The residual has mean 0 and variance  $\tau_{00}$ . Both equations combined yield the model for the analysis of variance:

$$(3) \quad Y_{ij} = \gamma_{00} + u_{0j} + \varepsilon_{ij}$$

which contains the total mean  $\gamma_{00}$  and the effect  $u_{0j}$  of the unit as well as the individual effect  $\varepsilon_{ij}$ . Thus, the total variance consists of the variance between the aggregate units and the variance within each unit and equals

$$(4) \quad \text{Var}(Y_{ij}) = \text{Var}(u_{0j} + \varepsilon_{ij}) = \tau_{00} + \sigma^2$$

whereby  $\tau_{00}$  is the variance of the error term  $u_{0j}$  (the country-level effect) and  $\sigma^2$  is the variance of the residuals of all individuals  $i$  in every country  $j$ . Then, the inter-class correlation is

$$\rho = \frac{\tau_{00}}{\tau_{00} + \sigma^2},$$

which equals the amount of variance from country-level effects as a percentage of the total variance. If a relatively high value of  $\rho$  justifies examining interclass differences, the first step is to allow for random intercepts and to take into consideration context effects such as variances in social expenditures across countries.

The following model measures the direct effect of an aggregate variable on the outcome of the dependent variable of level  $l$ . The standard model is given in equation (5) with the independent variable  $X_{ij}$ , which is centred around the group mean (so that the intercept can be interpreted as the medium attitude towards legalisation in each country).

$$(5) \quad Y_{ij} = \beta_{0j} + \beta_{1j}(X_{ij} - \bar{X}_{.j}) + \varepsilon_{ij}$$

Differences of the  $\beta$ -coefficients across countries can be explained by characteristics  $W_j$  of these aggregate units. Accordingly,

$$(6) \quad \beta_{0j} = \gamma_{00} + \gamma_{01}W_j + u_{0j}$$

In equation (6), the intercept  $\beta_{0j}$  (i.e. the means of the aggregate units) is a function of the mean across all units ( $\gamma_{00}$ ), which fluctuates by the amount of the aggregate variable  $W_j$  multiplied by the corresponding coefficient across all countries  $\gamma_{01}$  and an error term. In our example, the group mean  $\beta_{0j}$  equals the total mean  $\gamma_{00}$  (plus the error) in case of low social expenditures ( $W_j=0$ ).<sup>18</sup> The residual  $u_{0j}$  indicates the specific effect of country  $j$  on attitudes after controlling for  $W_j$ .

Before the fully specified hierarchical linear model is presented using these equations, it is useful to describe the other analytical tools that allow the final version of the empirical analysis to be approached. The one-way analysis of variance with random effects to identify the aggregated effect  $\rho$  has already been introduced. In multilevel models it is essential to discern between random intercept and random slope models and their combination.

By substituting (6) into (5) one obtains ( $V_{ij} = X_{ij} - \bar{X}_{.j}$ ):

$$(7) \quad Y_{ij} = \gamma_{00} + \gamma_{01}W_j + \beta_{1j}V_{ij} + u_{0j} + \varepsilon_{ij}$$

This random intercept model allows for variances in the intercept across countries and, in this example, also explains these differences by the degree of social expenditure  $W_j$ . This last step is not necessary in general for a random intercept model because the conditions of the model are fulfilled even if only different intercepts are estimated without further explaining variables, i.e. without the term  $\gamma_{01}W_j$ . In random intercept models, there are different regression lines for each country because a different intercept is estimated. Since the slopes are the same for all countries, the bundle of regression lines is parallel. The effect of the possible variable that explains the differences in the intercepts is a context effect as described above; i.e. the effect of the variables explaining differences at the individual level is the same across all countries. A certain change in the personal income changes the attitude towards legalisation independent of whether the individual lives in Denmark or neighbouring Britain (with different levels of social expenditures).

It is likely that the effect of an individual-level variable  $V_{ij}$  such as income, differs from country to country according to the amount of social expenditures. In that case, it would

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<sup>18</sup> For the sake of simplicity, I assume that the level of social spending is dichotomous. The variable is coded in several categories.

be advisable to allow for random slopes instead of fixed effects. This is modelled in the same way as in the case of the intercept, namely regarding the variable coefficient as a function of the coefficient  $\gamma_{10}$ , which represents the average association between income and attitudes in countries with low social expenditures ( $W_j=0$ ), and a country-specific error term  $u_{1j}$  that represents the effect of country  $j$  on the relationship between income and attitudes if one holds social expenditures  $W_j$  constant:

$$(8) \quad \beta_{1j} = \gamma_{10} + u_{1j}$$

This equation defines the slope  $\beta$  in each country as a deviation  $u_{1j}$  from the average slope  $\gamma_{10}$  over all countries  $j$ . By this variation of the HLM, one can decide which effects are supposedly fixed across the units of the second level and which effects should be assumed to be randomly distributed. If  $Var(u_{1j})$  differs from country to country, the effect of individual characteristics must be different in each unit of the second level in order to reasonably apply this variance of the HLM, i.e. the effect of income depends on the score of a country-characteristic variable  $W_j$  such as social expenditure. The regression must be modelled in such a way that one can take into account different effects of changes in the variable at level  $l$ . A ten percent increase in income in country  $A$  could lead to a five percent decrease in favourable attitudes towards legalisation, but could have only an effect of three percent in country  $B$ . The slope  $\beta_{1j}$  of the first dependent variable in country  $j$  as given in (9) must thus be explained by the aggregate feature  $W_j$  (cf. equation 6):

$$(9) \quad \beta_{1j} = \gamma_{10} + \gamma_{11}W_j + u_{1j}$$

The slope coefficient  $\beta_{1j}$  in (9) indicates the strength of the relationship between personal income and individual attitude. The differences of this coefficient across countries are likewise explained by the aggregate variable  $W_j$ . Here,  $\gamma_{10}$  is the average effect of individual income on the attitude towards legalisation and  $\gamma_{11}$  is the difference of this effect between countries spending much on social schemes and those spending little. The residual  $u_{1j}$  indicates the specific effect of country  $j$  on the connection of personal income and attitude if  $W_j$  is held constant.

If one assumes that context effects contribute to the variance in the dependent variable and that the effect of individual variables varies between countries (i.e. they exert random effects), one has to specify a full hierarchical linear model. The two steps can be reduced to one equation by substituting (9) into (7):

$$(10)$$



$$Y_{ij} = \gamma_{00} + \gamma_{01}W_j + \gamma_{10}V_{ij} + \gamma_{11}W_jV_{ij} + u_{0j} + u_{1j}V_{ij} + \varepsilon_{ij}$$

In contrast to standard regression models, the above equation has two error terms,  $u_{0j}$  and  $u_{1j}$ , which are constant for individuals of the same unit but vary across countries. If they equal zero, it would be sufficient to estimate a standard regression. Because the data are grouped in units with different mean and variance, it is more adequate to use a multilevel model to take into consideration these differences.

This linear model can be easily applied to cumulative models for dichotomous responses (logit models), which I will use for the empirical analysis of the Eurobarometer data. Because respondents can choose between four alternative answers to question Q.14 of the questionnaire, which range from “fully agree” to “fully disagree”, it can be taken as a categorical variable whose realisations are dichotomous ( $y = 1$ : [fully] agree or  $y = 0$ : [fully] disagree). It is necessary to estimate a non-linear function that fits the characteristics of the response variable, namely the restriction to an interval from 0 to 1 and the non-linear distribution of the responses that results from this distribution as it approaches both 0 and 1 asymptotically. The above equation must be regarded as the natural log of the odds ratio in favour of agreeing with the statement of question Q.14. A cumulative distribution function (CDF) of a random variable fulfils these preconditions.

The probability  $P_i$  that somebody agrees with the statement that legalisation should be carried out is the conditional expectation of  $Y_i$  given a set of independent variables  $X_{ik}$  with  $[X_{i1}, \dots, X_{ik}]$ . The logistic CDF is often used to plot the distribution of  $P_i$ . If the right side of equation (10) is represented by  $v_i$ ,  $P_i$  can be represented in the following way:

$$(11) \quad P_i = E(Y = 1|X_i) = \frac{1}{1+e^{-v_i}}$$

For values between  $-\infty$  and  $\infty$ ,  $P_i$  ranges between 0 and 1. Usually, one wants to have the  $\beta$ 's in  $v$  linearised to estimate these parameters by the OLS method. To this end, the odds ratio is introduced:

$$(12) \quad \frac{P_i}{1 - P_i} = \frac{1 + e^{v_i}}{1 + e^{-v_i}} = e^{v_i}$$

The first left-hand term is the odds ratio of positive attitudes towards legalisation, i.e. the ratio of the probability that a person will be in favour of legalisation to the probability that this person will be against legalisation. In (12), the linear term  $v_i$  can be easily obtained by finding its logarithm:

$$(13) \quad 48$$

$$L_i = \ln\left(\frac{P_i}{1 - P_i}\right) = v_i$$

Here the log of the odds ratio  $L_i$  is linear in the independent variables and in the parameters, so the OLS method can be used for determining the parameters in  $v_i$ . The estimated odds ratio can be easily calculated. This model will be estimated using Stata's *xtmixed* command, whereby the dependent variable is recoded as a two-response variable because this command does not support ordered logistic models.

Because the intercept is not reasonably automatically interpretable, all independent variables should be centred as far as possible, i.e. their values are subtracted from the mean of the relevant variable over all second order units. If this is done, the intercept indicates the value of the dependent variable for an average individual who has average values in all explaining variables. The centring is especially useful for this study because equations without predictors will be estimated. The concrete technique of centring follows the methods recommended by Kraemer and Blasey (2004; see also Aiken and West 1991). The only variable that can be centred is the respondents' age and the social expenditure of each country. All other variables are categorical where the lowest category has been chosen for a baseline reference person.

## 7. "Don't know" and missings

The dependent variable is built on the basis of the response to the question of whether illegal aliens who have been working in their respective countries should be legalized. There are, of course, a number of people who did not answer this question and chose "don't know". Researchers of survey data have tackled this problem in various ways (see Weins 2004: 135-140). In the following section, I will justify the approach chosen for this study.

The proportion of people who did not explicitly agree or disagree with the statement varies greatly from country to country. It is therefore not a conservative strategy to assume that these responses are distributed randomly over the sample. Context factors may influence the responses such that there is a hidden mechanism which is ignored if the option "don't know" is left out of the analysis. One way to integrate it is to form a new middle category between "agree" and "disagree" (see for example Kunovich 2002 and Winkler 2002). However, it is unclear whether these respondents are really between agreeing and disagreeing with the given statement; there may be a variety of reasons for their choice. In this study, the reasons why

people agree with legalisation are investigated. There are two theoretical alternatives: agreeing with legalisation and not agreeing. Whether they disagree is unclear, but those who chose “don’t know” are surely not agreeing with legalisation. Therefore, it seems reasonable to add the “don’t knows” to the disagreeing responses. This approach is also taken by Quillian (1995) and Weins (2004).

The same procedure is applied to the racism index. Because the question is how negative feelings towards ethnic minorities influence the dependent variable, indecisive respondents are added to those who do not bear negative attitudes towards foreigners, thereby transforming the original category “positive attitudes towards minorities” to the new category “non-negative attitudes towards minorities”. Therefore, the racism index increases by one point for each statement against racial minorities whereas the value does not rise in case of a positive or neutral (“don’t know”) statement.

Table 4: Multiple imputation

Variable	Command	Prediction equation
LAB1	logit	[No missing data in estimation sample]
LAB2	logit	[No missing data in estimation sample]
LAB3	logit	[No missing data in estimation sample]
LAB4	logit	[No missing data in estimation sample]
TOG	logit	LAB1 LAB2 LAB3 LAB4 INC1 INC2 INC3 LOC1 LOC2 RAC EDU AGE
INC	ologit	LAB1 LAB2 LAB3 LAB4 TOG LOC1 LOC2 RAC EDU AGE
INC1	[Passively imputed from INC==1]	
INC2	[Passively imputed from INC==2]	
INC3	[Passively imputed from INC==3]	
LOC	mlogit	LAB1 LAB2 LAB3 LAB4 TOG INC1 INC2 INC3 RAC EDU AGE
LOC1	[Passively imputed from LOC==1]	
LOC2	[Passively imputed from LOC==2]	
RAC	logit	[No missing data in estimation sample]
EDU	regress	LAB1 LAB2 LAB3 LAB4 TOG INC1 INC2 INC3 LOC1 LOC2 RAC AGE
AGE	regress	[No missing data in estimation sample]

There is also a large number of missing observations in other variables, for example income. Problems associated with these gaps cannot be resolved in the same manner. The

missing data are imputed using the complex mechanisms of multiple imputations, which replaced earlier, simpler forms of data imputation. However, even the multiple imputation methods require that lacking values are missing at random (MAR), which is an assumption that cannot be tested (Schafer and Graham 2002: 152). The only sure observation one can make is that INC, the variable with most gaps, is not missing completely at random because less-educated and younger people are more likely to refuse to reveal their income (see annex C).

The multiple imputation by chained equations (MICE) is used, an instrument developed by van Buuren et al. (1999). One variable with missing observations is regressed on all of the other variables and the regression coefficients and the variance of the residual is estimated. The fitted values are calculated at existing values only. Then, a random value of the residual standard deviation and the coefficients is drawn from each posterior distribution. These values are used to predict the fitted values at the missing observation of each dependent variable. This process is repeated several times, thereby replacing the initially imputed values with the newly calculated values at the end of each cycle. This process is applied to all variables with missing values that should be replaced by imputed values, i.e. each of these variables is regressed on all other covariates, whereby the respective regression technique varies according to the quality of the variable. For dichotomous variables, logit regressions are chosen; for categorical variables, multinomial or ordered logit regressions are used (see table 3). To preserve the multilevel character of the data set, the missing observation is imputed separately for each country.

The share of missing observations in the respective variable is relatively small in the case of the dependent variable ATT (see annex D). It fluctuates from five percent in Italy to 14.5 percent in Ireland and there are significant differences in the response rate between the countries, although at a relatively low level. The transformation of non-responses as described above seems to be justified, however. There are larger differences concerning income whose non-response rates vary from 10 percent in Denmark to 64 percent in Ireland.

The imputed data of the variable INC follow the same distribution over the percentiles as the original data in many countries. There are, however, some deviations that are most remarkable in cases with low numbers of imputed observations (see annex E).

## **8. Results**

### 8.1 Null model

The zero model reveals the percentage of variation that can be attributed to inter-class correlation, i.e. differences between the countries. In this case, the null model is

$$(14) \quad Y_{ij} = P_j + e_{ij}$$

which consists of the response variable  $Y_{ij}$  with value 1 if person  $i$  from country  $j$  agrees to legalisation and 0 otherwise, with the medium probability  $P_j$  of agreeing in country  $j$  plus a residual component  $e_{ij}$  at the first level. After a logit transformation for the reasons mentioned above and combined with (15)

$$(15) \quad \text{logit}(P_j) = \beta_{0j}$$

and

$$(16) \quad \beta_{0j} = \gamma_{00} + u_j$$

we obtain the zero model

$$(17) \quad \text{logit}(P_j) = \gamma_{00} + u_j$$

where  $\gamma_{00}$  is the mean value of the log-transformed probability over all countries, supplemented by the country-level deviation  $u_j$  from this value. According to the formula described above, the component  $\rho$  of the total variance that is a result of differences between countries is almost ten percent.<sup>19</sup> The empty model without predictors reveals that cross-country differences explain only a smaller part of the detected variance. This result means that the large differences in attitudes towards legalisation (figure 1) are largely attributed to differences in the composition of the population and not to the variance between the countries. However, a variance component of 10 percent because of cross-country deviances can be considered as large enough to justify a multi-level analysis.

### 8.2 Estimates with Random Intercepts

In the next step, individual predictors are included and context effects are allowed, i.e. random intercept effects. To this end, (17) is supplemented by several predictors that indicate personal characteristics of the individuals in the sample. The random term  $u_j$  for the second level indicates the cross-level differences again, but controlled for the covariates included in the model. It should, therefore, be smaller than in the zero model.

Table 5 contains the odds ratios. The results show that the only individual predictors of the probability to be in favour of legalisation are racism, education, and income. These results are stable across the different modifications of the estimation model. In particular, the indicator of racism does not lose its predictive power if educational variables are included in

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<sup>19</sup>  $.3648918 / (.3648918 + \pi^{2/3}) = .09984016$

the equation. This is also true when education is added to the estimation equations together with racism indicators (see models B2 to B4).

Table 5: Results (odds and p-values)

	B1	B2	B3	B4	B5	B6	B7	B8
<b>Demographic characteristics</b>								
SEX	1,069 0,048	1,036 0,297	1,042 0,225	1,042 0,224	1,037 0,296	1,037 0,299	1,037 0,293	1,037 0,290
CAGE	0,998 0,094	1,000 0,806	1,001 0,226	1,001 0,249	1,000 0,764	1,000 0,796	1,000 0,749	1,000 0,733
<b>Racism</b>								
RAC2		0,956 0,347	0,960 0,394	0,962 0,409	0,961 0,401	0,960 0,392	0,960 0,392	0,961 0,402
RAC3		0,711 0,000	0,720 0,000	0,720 0,000	0,720 0,000	0,719 0,000	0,719 0,000	0,718 0,000
RAC4		0,305 0,000	0,312 0,000	0,312 0,000	0,312 0,000	0,311 0,000	0,311 0,000	0,311 0,000
<b>Education</b>								
EDU2			1,069 0,152	1,074 0,133	1,077 0,119	1,075 0,129	1,078 0,112	1,081 0,102
EDU3			1,201 0,000	1,220 0,000	1,226 0,000	1,224 0,000	1,235 0,000	1,237 0,000
<b>Income</b>								
INC2				1,106 0,038	1,106 0,040	1,103 0,044	1,104 0,042	1,103 0,045
INC3				1,016 0,758	1,018 0,740	1,015 0,776	1,017 0,753	1,014 0,792
INC4				0,974 0,633	0,977 0,690	0,974 0,650	0,978 0,693	0,974 0,644
TOG				1,002 0,965	1,001 0,987	1,002 0,963	0,995 0,896	0,995 0,906
<b>Labour market position</b>								
LAB1					0,948 0,501	0,946 0,483	0,948 0,498	0,946 0,483
LAB2					1,051 0,408	1,052 0,400	1,050 0,414	1,049 0,427
LAB3					1,007 0,917	1,010 0,885	1,006 0,931	1,005 0,943
LAB5					1,004 0,936	1,004 0,938	1,004 0,935	1,004 0,941
<b>Locality</b>								
LOC2						1,083 0,054	1,034 0,705	1,040 0,659
LOC3						1,009 0,836	0,935 0,452	0,930 0,414
<b>Country characteristics</b>								
SOC							0,900 0,000	0,925 0,001
AMN								1,860 0,001
cons	0,323 0,039	0,605 0,000	0,504 0,002	0,470 0,005	0,461 0,007	0,432 0,012	3,196 0,000	2,2213 0,000
<b>Random effect: variance of the intercept</b>								
Var. of cons	-0,505 0,004	-0,536 0,002	-0,514 0,003	-0,510 0,004	-0,511 0,003	-0,509 0,004	-0,831 0,000	-1,108 0,000

However, only xenophobic people of degree RAC3 and RAC4 significantly differ from the least xenophobic people (the reference category RAC1). As expected, the more restrictive the attitudes towards ethnic minorities are, the smaller the chance of agreeing with legalisation. If a person shows the second-highest degree of racism (RAC3), the odds of consenting to legalisation are roughly 0.7 times the odds of consenting for a person with the lowest degree of racism. The odds of people with the highest values of racism are even smaller: around 0.3 the odds of those who are least xenophobic.

The next significant effect is a little bit smaller: For higher educated people (EDU3), the odds of voting for legalisation are around 1.2 the odds of the least educated (EDU1), the reference category. All other effects are not significant except for sex and age in model C1. This effect becomes insignificant, however, if one controls for racism (model B2).

The second-lowest income group increases the likelihood of approving of legalisation compared to people with very low income (model B4-B8). This rather small effect is the only hint at the importance of personal income.

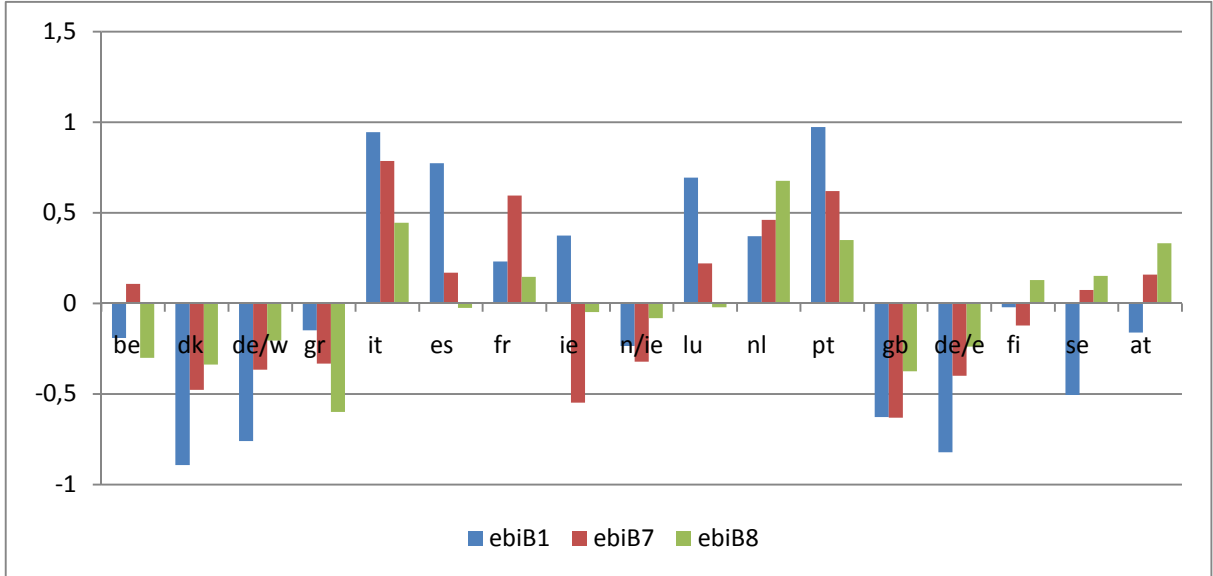
The effect of INC2 in comparison with the reference category INC1 shows that the odds of being in favour of legalisation in this income class are around 1.1 the odds of people in the lowest income class. This result is significant at the five-percent level, but cannot be replicated for the other income groups. This result contradicts the taxpayer hypothesis because people with higher earnings in particular are expected to be against legalisation or to have a less-favourable opinion of legalisation than lower income groups. The driving cause of the observed opposite effect could be that income represents labour market position and those with higher incomes fear less competition by legalised foreigners. However, the largest differences should be expected between the lowest income class and the higher income classes INC3 and INC4, but there is apparently no significant effect.

Moreover, none of the different labour market statuses are significantly different from the reference category (unemployed). This disproves the labour market competition hypothesis or at least shows that it cannot be proven this way. This result is especially important because most economic theories on attitudes towards immigration are based on this hypothesis. There are also two country-level variables that were included in model B7 and B8; both are highly significant. The effect of SOC indicates that an increase of one unit in the percentage of social expenditures decreases the odds of consenting to legalisation to 0.9 times the former odds (model B7). This is a hint at the importance of social expenditures, which will be analysed in detail in the following estimations.

The most important effect in terms of size is the dummy for earlier experience of at least one amnesty. The fact that a respondent lives in a country where this instrument has been put into practice increases the odds of consent by 1.86. The variable AMN is even more influential than individual xenophobic attitudes. This finding confirms the assumption that there is a certain connection between attitudes and the experience of legalisation or characteristics of countries that carried out legalisation. One can only speculate about the reasons. Perhaps people respond positively if they are accustomed to legalisation. Even if this instrument is seldom used, citizens living in certain states are more ready to accept legalisation because amnesties are a real, though perhaps controversial, policy option for dealing with immigrants. In contrast, people living in states that have not passed legalisation granting amnesties for illegal immigrants tend to believe amnesties to be a very unusual or even absurd measure. It will be shown in chapter C how strong opposition to legalisation is in a country that has no prior experience in these matters and stresses the coherence of the law. Although quasi-legalisation may have been carried out, it is rather rare and followed the usual administrative path. The introduction of AMN does not change the effect of SOC much, so both influences exist independently of each other.

There are also some interesting results concerning the random parameters. First of all, the variance of the random intercept component  $u_{0j}$  increases from model B1 to model B8. Thus, the country-specific intercepts increasingly vary and the more complex models increase the differences between the random components.

Figure 3: Empirical Bayes prediction of random effects (random intercepts)





Additionally, it is possible to estimate the country-level random effect for all countries by empirical Bayes prediction and to conclude which states deviate up or down (Rabe-Hesketh and Skrondal 2008: 80). Figure 3 shows the empirical Bayes estimates of the country-level random intercepts ( $\text{ebi}$ ) in models B1, B7 and B8 (as specified in table 5).

The size of the country-level random components decreases when the models become more complex (see annex F for details). Thus, the specifications seem to increasingly reduce the unobserved heterogeneity in the data. There are some remarkable patterns in the first specification. Countries with past experience of large-scale amnesties are especially prone to deviate above the average, i.e. their regression lines are on a higher level; see Italy, Spain, Luxembourg, and Portugal, and the exception of Greece. This pattern is in agreement with the descriptive results that have shown a higher acceptance of legalisation in these countries. With more precise estimation equations, the results become more balanced. Countries with large deviations to the top or to the bottom in estimation B1 display values that are nearer to the average in estimations B7 and B8. The standard deviation of the random coefficients for the  $B$  estimations is reduced from 0.62 (model B1) to 0.33 (model B8). In some cases, the random component grows: The comparably liberal attitudes in the Netherlands become even stranger because the country did not carry out any extraordinary measure in the last two decades that could explain the higher level of agreement. The reason may be that Dutch society is traditionally open to foreigners while other countries are more suspicious of new social groups in their country (Guiraudon 2000; Leun 2006). Whatever the reason is, “it is appealing to model this unobserved heterogeneity in the same way as observed heterogeneity by simply adding the random intercept to the linear predictor” as is done in multilevel models (Rabe-Hesketh and Skrondal 2008: 247).

### **8.3 Estimations with Random Slopes**

The results of the models with random coefficient for INC are basically the same for all fixed effects (annex G). The significant individual-level effects are marginally smaller than in the models described above. One major difference is that income is now an ordinal variable with five categories regarded as continuous because it is not possible to include random effects for three dummy variables given such a limited number of units at level two (17 countries/regions).<sup>20</sup> INC is absolutely insignificant. This outcome is not surprising since the

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<sup>20</sup> The 20% percentiles are calculated on the basis of the original income variable of the questionnaire with twelve categories. It is not advisable to create a variable with more categories because the households' income is very unevenly distributed over the twelve original intervals in each country. This reflects an attempt to generate an internationally comparable measure of the income distribution.

dummy variables for different income classes in the models with random intercepts (model B1 to B7) were significant only in one case. Thus, the income related hypothesis is not confirmed as it is in the cases where randomized effects were limited to intercepts.

The variance of the random component of the intercept continuously increases compared to model C3, where the main explanatory variables are the racism indicators. Moreover, including the country-level variables SOC and AMN in the estimation (model C7 and C8) again boosts the variance. This latter point is also true regarding the variance of the random component of INC, while consecutive models after the introduction of racism indicators initially decrease in variance.

The various  $u_{0j}$  almost equal those of the  $B$  series (see annex H). The random coefficients of INC are more interesting. There is no steady trend as there is in the random intercepts. Sweden, Denmark, Great Britain, France, and Greece show below-average influence of INC, while the effect of income seems to be stronger in Belgium, Portugal, Finland, and Ireland. However, these effects are not very large in absolute terms, although they can change the average effect considerably. In the most extreme case (Sweden in model C2), the general change in the logits caused by INC (coefficient .015) is supplemented by a Sweden-specific 6.9-percent decrease. Taken together, the higher the income, the less likely Swedes are to agree with legalisation. This could also be stated as a regression of only the Swedish data, although INC cannot be called significant (z value of -1.59, see annex I).

The results so far are supplemented by an important aspect when interaction effects exist between SOC and INC (see annex J). The main effect and the minor effect of income become significant. Higher income (switching from one of the five income groups to the next) increases the odds of legalisation friendliness by between 1.26 and 1.28 times the odds of the respective smaller income group. This factor decreases to approximately 1.21 if country characteristics are included. These results are only true if the interaction effect equals zero, i.e. if SOC is at the average (25.5) and INC has the smallest value (zero, the lowest income class). In all other cases, an interaction effect must be added. The influence of the interaction between (a) the share of social expenditures in total state spending, and (b) personal income, is very small but significant at the five-percent level. The effect is so small that it is negligible in the case of small differences in social expenditures. It shows that each increase in SOC decreases the augmenting effect of income, so that it is only 0.99 times the effect of INC in the SOC class below it. Social expenditure ranges from 16.1 percent of the BIP (Ireland) to 32 percent (Sweden). The maximum effect of SOC is therefore 0.87 ( $0.99^{16}$ ) when one compares

the two extreme cases. Contrary to the theoretical prediction, however, higher social expenditures result in smaller income effects.

Figure 4: Empirical Bayes prediction of random effects (random slopes)

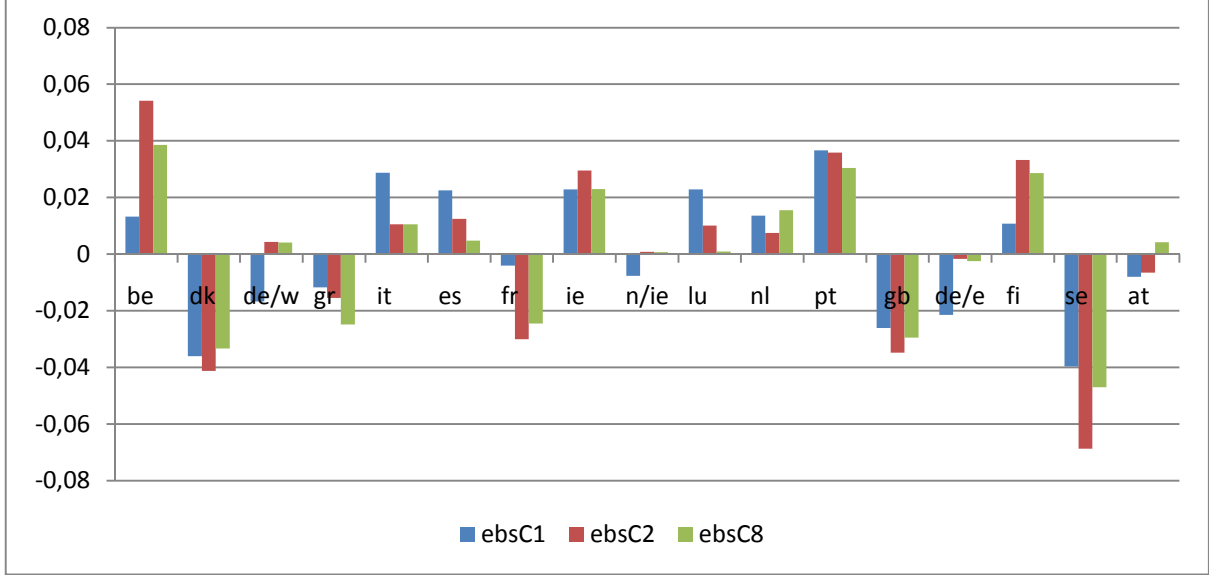
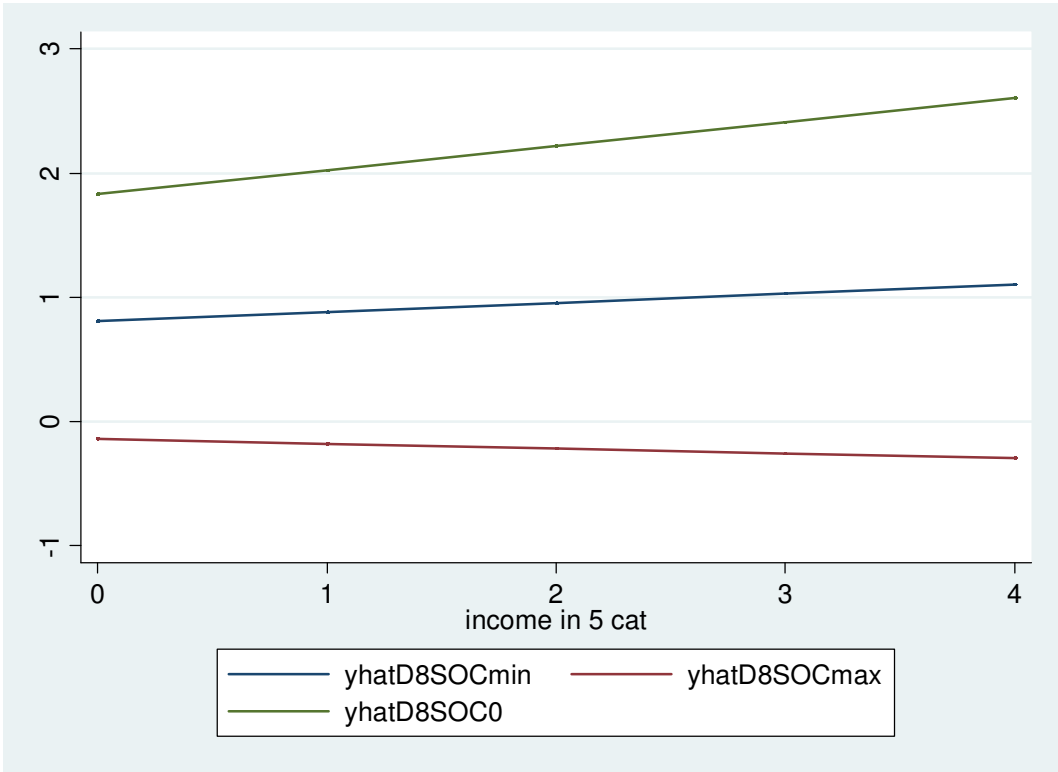


Figure 5: Interaction effect



This interaction effect can also be depicted graphically. In figure 5, the average effect ( $SOC=0$ ) is shown by the upper line ( $\hat{D8SOC0}$ ). The other two lines represent the mentioned maximum (middle line;  $\hat{D8SOCmax}$ ) and minimum values (lower line;  $\hat{D8SOCmin}$ ). Apparently, the slope of the regression lines does not change very much. The higher the social expenditures (as a percentage of GDP), the less the acceptance of legalisation rises with income. However, this graphical depiction comes close to portraying the country-specific random effects because SOC does not vary by country. The effect of each country on income is already accounted for by randomising the coefficient of INC. This result should also explain the relatively small effect of the interaction variable.

## 9. Conclusion

There is always uncertainty with regard to survey data because “many who will tell a pollster that illegal aliens have no right to work in this country are certain to want to make an exception for the maid who works for their next-door neighbour or the cook at their favourite Chinese restaurant” (Harwood 1986: 209-10). On the basis of the Eurobarometer data set, some conclusions can be drawn. First, labour market competition seems not to be decisive when a person has to decide whether he or she is in favour of legalisation or not. Using this data set, this standard economic theory did not prove to be valid. Even the dummy variable for unemployment was not significant, although jobless people may be assumed to be extraordinarily strongly exposed to competition with legalised aliens or low-skilled foreigners in general.

A higher income proved to be a significant predictor for anti-legalisation feelings insofar as people in the second-lowest income bracket are somewhat more in favour of legalisation than those earning the least. If interaction effects with the degree of social expenditures are allowed, a higher income increases the likelihood of approving of legalisation. This outcome contradicts the hypothesis that people with higher incomes are expected to be against legalisation because amnesties increase the total number of possible social-benefits recipients (unemployment benefits, health care, social assistance etc.) and high earners must contribute disproportionately to the social expenditures of the state. The question of whether this is due to a hidden effect of the labour market position measured by income instead of the variables used here must be left to future research.

The control variables sex and age were insignificant across almost all estimations. The size of the location as a very indirect measure of the contact hypothesis did not exert any significant influence on attitudes either. Certain features of the country where the respondents live are reliable predictors of attitudes towards legalisation. If the country spends a lot of its budget on welfare benefits and other social provisions, the people are more likely to disapprove of legalisation. If the country has carried out amnesties in the past, its population is also more inclined to support these extraordinary measures. The general non-conformity attached to amnesties is diminished by a certain basic acceptance: it may still be highly controversial but at least there is a common understanding that it belongs to the apparatus of immigration policy. This latter finding is tested by the interpretation of parliamentary debates in Germany and France, two countries with different experiences regarding legalisation (see next chapter).

Racial attitudes and education proved to be highly significant, with large coefficients. In addition to the characteristics mentioned for each of the countries, they are the actual drivers of attitudes towards legalisation. This finding is important and shows that prejudice is a reliable factor influencing attitudes towards immigration in general and legalisation of illegal immigrants in particular. In contrast to the income and labour competition hypotheses, racial attitudes predict the response behaviour reliably.

Is the practical implication of this study that politicians do not have to care whether they allow legalised aliens to access social benefits or whether legalised foreigners compete with natives at the labour market? Certainly not, because people may regard legalisation as an increase in labour market competition or as an additional burden on social spending, two negative consequences that are probably rejected by all groups in society and that diminish the legitimacy of immigration policy. Politicians could react to such public perceptions by issuing only temporary residence permits whose extension is dependent on the economic situation of each foreigner. Although this possibility does not exclude legalised aliens from the welfare state, it minimises the risk of producing a new pool of potential benefit recipients. However, as discussed in this chapter, these initial hypotheses did not turn out to be true. Education and racial attitudes determine the disposition of being in favour of legalisation, together with higher income under certain circumstances. In any case, objective interests against legalised immigrants are not the reason for a lack of legitimacy for legalisation. Rejection of this instrument is attributed to individual dispositions that evade political influence. Furthermore, there are national features of immigration policy that are accompanied by a generally higher legitimacy of legalisation.

## Annex

### A. List of variables

	<b>Definition</b>	<b>Value</b>
<b>Dependent variables</b>		
<b>ATT</b>	Attitudes towards legalisation <sup>a</sup>	Ordinal: 1, 2, 3, 4 “completely agree” – “completely disagree”
<b>ATT_BI</b>	Attitudes towards legalisation	categorical: 0, 1 “tend to disagree and completely disagree”, “tend to agree and completely agree”
<b>Independent variables<sup>b</sup></b>		
<b>INC</b>	Income of household	Ordinal 1, 2, 3, 4 “low income” – “high income”
<b>EDU</b>	Duration of education	Ratio scale: Age when full-time education was stopped
<b>LAB1</b>	Labour market status: Unemployed	1 “yes”, 0 “no”
<b>LAB2</b>	Labour market status: inactive	1 “yes” (responsible for housework, without any current employment, not working, retired, inability to work) 0 “no”
<b>LAB3</b>	Labour market status: self-employed	1 “yes”, 0 “no”
<b>LAB4</b>	Labour market status: employed, high position	1 “yes” (professional self employed or employed professional like lawyer, doctor, accountant, architect etc., general management, director or top management, middle management, employed and working mainly at a desk), 0 “no”
<b>LAB5</b>	Labour market status: employed, low position	1 “yes” (travelling, working in a service job, supervisors, skilled manual workers, unskilled manual workers, servants), 0 “no”
<b>LOC</b>	Location	1 “rural area or village”, 2 “small or mid-sized town”, 3 “large town”
<b>SEX</b>	Sex	0 “male”, 1 “female”
<b>RAC4</b>	Racism measured by attitudes towards minorities	1, 2, 3, 4 “slightly negative attitudes towards foreigners” – “highly negative attitudes”
<b>AGE</b>	Respondent’s age	Ratio scale
<b>TOG</b>	Living together with partner (married or unmarried)	1 “yes”, 0 “no”
<b>TAX</b>	Tax revenue as percentage of BIP	
<b>SOC</b>	Social expenditures as percentage of BIP (Source: Eurostat)	Social spending for the following situations: illness/health system, disability, old age, surviving dependents, family/children, unemployment, housing, social exclusion

<sup>a</sup> Exact wording of the question: “For each of these can you tell me whether you completely agree, tend to agree, tend to disagree or completely disagree?” [several other statements] – “We should legalise the status of illegal immigrants who have been working in (OUR COUNTRY) for several years.”

<sup>b</sup> All variables are centred.

B. Racism-index

Q.53. For each of the following opinions, could you please tell me whether you tend to agree or tend to disagree ? (SHOW CARD)

- Q53.1 It is a good thing for any society to be made up of people from different races, religions and cultures
- Q53.2 (Country) has always consisted of various cultural and religious groups
- Q53.3 (Country)'s diversity in terms of race, religion and culture adds to its strengths
- Q53.4 In order to be fully accepted members of (nationality) society, people belonging to these minority groups must give up their own culture
- Q53.5 In order to be fully accepted members of (nationality) society, people belonging to these minority groups must give up such parts of their religion or culture which may be in conflict with (nationality) law
- Q53.6 In two or three generations' time, people belonging to these minority groups will be like all other members of society
- Q53.7 There is a limit to how many people of other races, religions or cultures a society can accept
- Q53.8 (Our country) has reached its limits, if there were to be more people belonging to these minority groups we would have problems
- Q53.9 Not everybody belonging to these minority groups wants to be a full member of (nationality) society
- Q53.10 Whether people belonging to these minority groups can be fully accepted members of (nationality) society depends on which group they belong to
- Q53.11 People belonging to these minority groups are so different, they can never be fully accepted members of (nationality) society

C. INC not missing completely at random

Two-sample *t* tests with equal variances

1. Education (“How old were you when you stopped full-time education?”) by groups (0: INC not missing, 1: INC missing)

Group	Obs	Mean	Std. Err.	Std. Dev.
0	10583	16.78012	.0679991	6.995323
1	5555	14.56598	.1022186	7.618545
combined	16138	16.01797	.0574011	7.291974
diff		2.214142	.1195555	

diff = mean(0) - mean(1)

t = 18.5198

Ho: diff = 0

degrees of freedom = 16136

Ha: diff < 0

Ha: diff != 0

Ha: diff > 0

Pr(T < t) = 1.0000

Pr(T > t) = 0.0000

Pr(T > t) = 0.0000

2. Age by groups (0: INC not missing, 1: INC missing)

Group	Obs	Mean	Std. Err.	Std. Dev.
0	10600	46.47358	.171111	17.61695
1	5561	42.41737	.2502221	18.65959

**combined** | 16161 45.07784 .14226 18.08493  
**diff** | 4.056214 .2977525

diff = mean(0) - mean(1)

t = 13.6228

Ho: diff = 0

degrees of freedom = 16159

Ha: diff < 0

Ha: diff != 0

Ha: diff > 0

Pr(T < t) = 1.0000

Pr(T > t) = 0.0000

Pr(T > t) = 0.0000

#### D.

##### 1. Missings in the dependent variable

	be	dk	de/w	el	it	es	fr	ie	n/ie
agree	55.73	38.20	41.42	56.74	79.96	77.00	65.86	69.02	54.46
disagree	33.98	55.10	48.62	35.96	15.10	12.80	26.58	16.43	33.00
don't know	10.29	6.70	9.96	7.29	4.94	10.20	7.57	14.54	12.54
	lu	nl	pt	gb	de/e	fi	se	at	
agree	75.67	68.93	80.50	44.76	39.94	60.08	47.80	56.57	
disagree	18.33	24.48	13.50	42.98	47.17	31.60	46.20	32.33	
don't know	6.00	6.59	6.00	12.25	12.89	8.32	6.00	11.10	

##### 2. Missing observation of INC

be	42.23	el	37.36	fr	34.23	lu	47.50	gb	47.13	se	13.80
dk	9.80	it	51.53	ie	64.14	nl	35.46	de/e	27.05	at	35.93
de/w	20.81	es	35.90	n/ie	49.17	pt	34.60	fi	13.89		

#### E. Imputed values of INC by country

	imputed		original			imputed		original	
<b>be</b>					<b>ie_north</b>				
very low	75	17.24%	112	18.82%	very low	52	34.90%	40	25.97%
low	116	26.67%	162	27.23%	low	77	51.68%	88	57.14%
high	124	28.51%	162	27.23%	high	14	9.40%	15	9.74%
very high	120	27.59%	159	26.72%	very high	6	4.03%	11	7.14%
Total	435		595		Total	149		154	
<b>dk</b>					<b>lu</b>				
very low	22	22.45%	164	18.18%	very low	83	29.12%	67	21.27%
low	34	34.69%	210	23.28%	low	42	14.74%	49	15.56%
high	16	16.33%	200	22.17%	high	80	28.07%	93	29.52%
very high	26	26.53%	328	36.36%	very high	80	28.07%	106	33.65%
Total	98		902	100%	Total	285		315	
<b>de_west</b>					<b>nl</b>				
very low	45	21.33%	191	23.79%	very low	182	51.27%	282	43.65%
low	48	22.75%	199	24.78%	low	81	22.82%	132	20.43%
high	69	32.70%	238	29.64%	high	43	12.11%	100	15.48%
very high	49	23.22%	175	21.79%	very high	49	13.80%	132	20.43%
Total	211		803		Total	355		646	
<b>gr</b>					<b>pt</b>				
very low	79	21.12%	152	24.24%	very low	80	23.12%	231	35.32%
low	98	26.20%	165	26.32%	low	129	37.28%	207	31.65%
high	95	25.40%	170	27.11%	high	90	26.01%	134	20.49%
very high	102	27.27%	140	22.33%	very high	47	13.58%	82	12.54%



Total	374		627		Total	346		654	
<b>it</b>					<b>gb</b>				
very low	159	30.46%	141	28.72%	very low	71	14.88%	86	16.07%
low	127	24.33%	117	23.83%	low	127	26.62%	133	24.86%
high	123	23.56%	115	23.42%	high	111	23.27%	115	21.50%
very high	113	21.65%	118	24.03%	very high	168	35.22%	201	37.57%
Total	522		491		Total	477		535	
<b>es</b>					<b>de_east</b>				
very low	63	17.55%	130	20.28%	very low	66	23.83%	216	28.92%
low	67	18.66%	142	22.15%	low	92	33.21%	279	37.35%
high	91	25.35%	135	21.06%	high	55	19.86%	116	15.53%
very high	138	38.44%	234	36.51%	very high	64	23.10%	136	18.21%
Total	359		641		Total	277		747	
<b>fr</b>					<b>fi</b>				
very low	125	32.89%	240	32.88%	very low	18	12.68%	88	10.00%
low	103	27.11%	197	26.99%	low	42	29.58%	284	32.27%
high	63	16.58%	123	16.85%	high	40	28.17%	277	31.48%
very high	89	23.42%	170	23.29%	very high	42	29.58%	231	26.25%
Total	380		730		Total	142		880	
<b>ie</b>					<b>se</b>				
very low	242	37.58%	122	33.89%	very low	41	29.71%	216	25.06%
low	217	33.70%	130	36.11%	low	36	26.09%	219	25.41%
high	127	19.72%	72	20.00%	high	27	19.57%	164	19.03%
very high	58	9.01%	36	10.00%	very high	34	24.64%	263	30.51%
Total	644		360		Total	138		862	
<b>at</b>									
very low	73	19.78%	142	21.58%					
low	100	27.10%	162	24.62%					
high	118	31.98%	207	31.46%					
very high	78	21.14%	147	22.34%					
Total	369		658						

#### F. Random coefficients for models B

	<b>ebiB1</b>	<b>ebiB2</b>	<b>ebiB3</b>	<b>ebiB4</b>	<b>ebiB5</b>	<b>ebiB6</b>	<b>ebiB7</b>	<b>ebiB8</b>
<b>be</b>	-0.19	-0.09	-0.10	-0.10	-0.10	-0.10	0.11	-0.30
<b>dk</b>	-0.89	-0.86	-0.93	-0.92	-0.93	-0.92	-0.48	-0.34
<b>de/w</b>	-0.76	-0.74	-0.73	-0.73	-0.73	-0.73	-0.37	-0.21
<b>gr</b>	-0.15	-0.05	-0.04	-0.04	-0.04	-0.04	-0.33	-0.60
<b>it</b>	0.94	0.88	0.89	0.89	0.89	0.88	0.79	0.44
<b>es</b>	0.77	0.75	0.77	0.78	0.78	0.78	0.17	-0.03
<b>fr</b>	0.23	0.27	0.26	0.26	0.26	0.26	0.59	0.15
<b>ie</b>	0.37	0.39	0.40	0.40	0.39	0.40	-0.55	-0.05
<b>n/ie</b>	-0.24	-0.34	-0.32	-0.35	-0.34	-0.34	-0.32	-0.08
<b>lu</b>	0.69	0.63	0.63	0.64	0.64	0.63	0.22	-0.02
<b>nl</b>	0.37	0.41	0.40	0.40	0.40	0.39	0.46	0.68
<b>pt</b>	0.97	0.92	0.98	0.97	0.97	0.98	0.62	0.35
<b>gb</b>	-0.63	-0.66	-0.65	-0.64	-0.64	-0.64	-0.63	-0.38
<b>de/e</b>	-0.82	-0.76	-0.76	-0.77	-0.76	-0.76	-0.40	-0.24
<b>fi</b>	-0.02	-0.08	-0.11	-0.12	-0.11	-0.12	-0.12	0.13
<b>se</b>	-0.51	-0.53	-0.58	-0.58	-0.57	-0.58	0.07	0.15
<b>at</b>	-0.16	-0.13	-0.12	-0.11	-0.12	-0.12	0.16	0.33
<b>SD</b>	0.617	0.598	0.611	0.614	0.613	0.612	0.442	0.332

G. Estimations with random coefficients

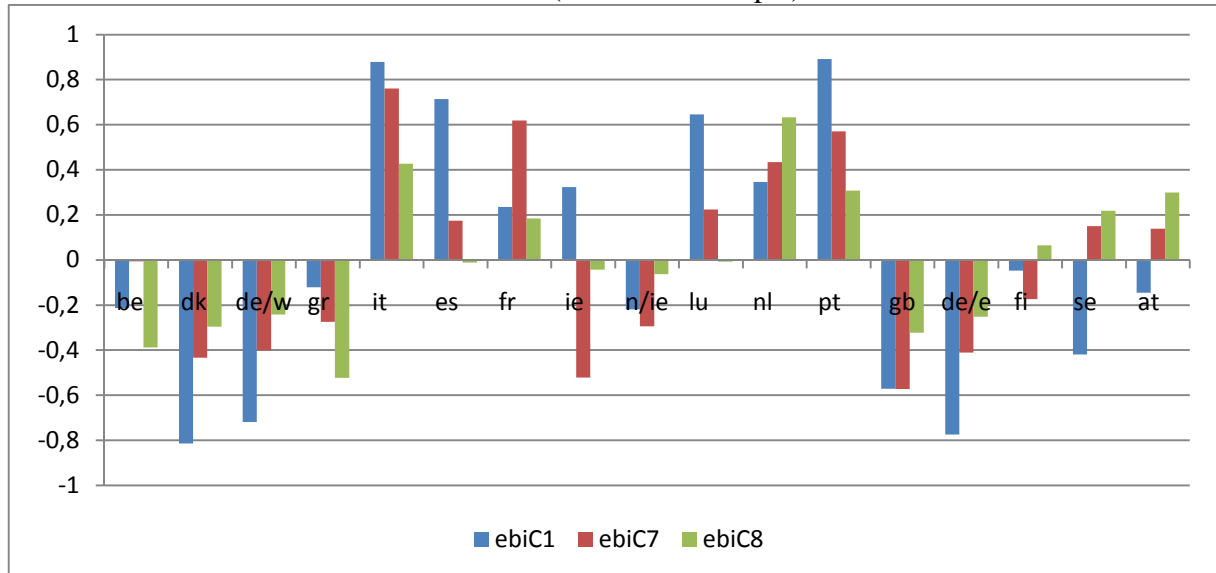
	<b>C1</b>	<b>C2</b>	<b>C3</b>	<b>C5</b>	<b>C6</b>	<b>C7</b>	<b>C8</b>
<b>Demographic characteristics</b>							
<b>SEX</b>	1,070	1,039	1,043	1,036	1,036	1,036	1,037
	0,043	0,268	0,223	0,307	0,307	0,302	0,289
<b>CAGE</b>	0,999	1,001	1,002	1,001	1,001	1,001	1,001
	0,287	0,484	0,152	0,659	0,657	0,666	0,668
<b>Income</b>							
<b>TOG</b>	0,962	0,983	0,991	0,988	0,985	0,984	0,983
	0,306	0,662	0,811	0,759	0,705	0,683	0,657
<b>INC</b>	1,019	1,016	1,004	1,006	1,006	1,006	1,006
	0,219	0,375	0,812	0,729	0,730	0,738	0,724
<b>Racism</b>							
<b>RAC2</b>		0,954	0,958	0,958	0,957	0,957	0,959
		0,317	0,370	0,362	0,354	0,356	0,376
<b>RAC3</b>		0,708	0,717	0,717	0,715	0,715	0,716
		0,000	0,000	0,000	0,000	0,000	0,000
<b>RAC4</b>		0,304	0,310	0,310	0,309	0,309	0,309
		0,000	0,000	0,000	0,000	0,000	0,000
<b>Education</b>							
<b>EDU2</b>			1,066	1,069	1,070	1,071	1,073
			0,180	0,160	0,154	0,147	0,140
<b>EDU3</b>			1,196	1,206	1,211	1,216	1,217
			0,001	0,001	0,001	0,000	0,000
<b>Labour market position</b>							
<b>LAB1</b>				0,966	0,965	0,965	0,964
				0,663	0,656	0,654	0,647
<b>LAB2</b>				1,066	1,065	1,065	1,065
				0,292	0,298	0,296	0,293
<b>LAB3</b>				1,004	1,003	1,003	1,003
				0,950	0,963	0,962	0,964
<b>LAB5</b>				1,014	1,013	1,014	1,014
				0,775	0,794	0,780	0,775
<b>Location</b>							
<b>LOC2</b>					1,029	1,029	1,035
					0,750	0,743	0,699
<b>LOC3</b>					0,940	0,937	0,933
					0,487	0,467	0,436
<b>Country characteristics</b>							
<b>SOC</b>						0,906	0,933
						0,000	0,002

AMN							1,857
							0,001
cons	0,301	0,580	0,506	0,486	0,498	3,051	2,030
	0,044	0,000	0,002	0,003	0,002	0,000	0,001

**Random effects**

Var of	-3,482	-3,103	-3,132	-3,155	-3,153	-3,256	-3,289
INC	0,000	0,000	0,000	0,000	0,000	0,000	0,000
Var of	-0,582	-0,584	-0,558	-0,558	-0,560	-0,854	-1,139
cons	0,001	0,001	0,002	0,002	0,002	0,000	0,000
Covar of	0,704						
INC,	0,3793						
cons							

H. Random coefficients for models C (random intercepts)



I. Single regression of Swedish data

. logit ATT SEX CAGE RAC2 RAC3 RAC4 TOG INC if cntr==17, iterate(20)

Iteration 0: log likelihood = **-692.17887**  
 Iteration 1: log likelihood = **-670.6341**  
 Iteration 2: log likelihood = **-670.48892**  
 Iteration 3: log likelihood = **-670.48879**

Logistic regression  
 Log likelihood = **-670.48879**  
 Number of obs = **1000**  
 LR chi2(7) = **43.38**  
 Prob > chi2 = **0.0000**  
 Pseudo R2 = **0.0313**

ATT	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]
SEX	.3146052	.1300268	2.42	0.016	.0597575 .569453
CAGE	.0060743	.0036746	1.65	0.098	-.0011278 .0132764
RAC2	-.0933556	.1761228	-0.53	0.596	-.43855 .2518388
RAC3	-.423478	.1954277	-2.17	0.030	-.8065092 -.0404467
RAC4	-1.374	.3022642	-4.55	0.000	-1.966427 -.7815728
TOG	-.1422972	.1626414	-0.87	0.382	-.4610685 .1764742
INC	-.0950627	.0598116	-1.59	0.112	-.2122912 .0221658
_cons	.0067623	.2810744	0.02	0.981	-.5441335 .5576581

J. Estimations with random coefficients and interaction effect

	<b>D1</b>	<b>D2</b>	<b>D3</b>	<b>D5</b>	<b>D6</b>	<b>D7</b>	<b>D8</b>
<b>Demographic characteristics</b>							
<b>SEX</b>	1,069	1,037	1,041	1,035	1,035	1,035	1,036
	0,047	0,283	0,237	0,324	0,324	0,317	0,311
<b>CAGE</b>	0,999	1,001	1,002	1,001	1,001	1,001	1,001
	0,299	0,446	0,143	0,632	0,632	0,636	0,631
<b>Income</b>							
<b>TOG</b>	0,966	0,991	0,998	0,996	0,993	0,991	0,990
	0,368	0,809	0,962	0,916	0,858	0,815	0,797
<b>INC</b>	1,275	1,284	1,262	1,264	1,266	1,216	1,213
	0,015	0,008	0,014	0,012	0,011	0,038	0,039
<b>INCxSOC</b>	0,991	0,991	0,991	0,991	0,991	0,993	0,993
	0,023	0,012	0,014	0,012	0,012	0,040	0,041
<b>Racism</b>							
<b>RAC2</b>		0,954	0,959	0,958	0,958	0,958	0,958
		0,325	0,378	0,370	0,362	0,361	0,370
<b>RAC3</b>		0,709	0,718	0,718	0,716	0,716	0,716
		0,000	0,000	0,000	0,000	0,000	0,000
<b>RAC4</b>		0,304	0,310	0,310	0,309	0,309	0,309
		0,000	0,000	0,000	0,000	0,000	0,000
<b>Education</b>							
<b>EDU2</b>			1,061	1,065	1,066	1,068	1,070
			0,209	0,188	0,180	0,168	0,156
<b>EDU3</b>			1,192	1,202	1,208	1,213	1,215
			0,001	0,001	0,001	0,000	0,000
<b>Labour market position</b>							
<b>LAB1</b>				0,958	0,957	0,959	0,958
				0,590	0,582	0,596	0,587
<b>LAB2</b>				1,063	1,063	1,063	1,063
				0,307	0,313	0,310	0,310
<b>LAB3</b>				1,000	0,999	0,999	0,999
				0,999	0,986	0,992	0,986
<b>LAB5</b>				1,014	1,013	1,014	1,014
				0,772	0,791	0,780	0,781
<b>Location</b>							
<b>LOC2</b>					1,029	1,030	1,035
					0,745	0,739	0,700
<b>LOC3</b>					0,938	0,936	0,932
					0,475	0,459	0,429
<b>Country characteristics</b>							
<b>SOC</b>						0,915	0,940
						0,002	0,008
<b>AMN</b>							1,837
							0,001
<b>cons</b>	0,301	0,574	0,502	0,485	0,497	2,783	1,831
	0,045	0,000	0,001	0,002	0,002	0,000	0,004

<b>Random effects</b>							
<b>Var of</b>	-4,107	-3,491	-3,519	-3,575	-3,577	-3,555	-3,567
<b>INC</b>	0,010	0,000	0,000	0,000	0,000	0,000	0,000
<b>Var</b>	-0,580	-0,634	-0,608	-0,609	-0,612	-0,851	-1,127
<b>of cons</b>	0,001	0,000	0,001	0,001	0,001	0,000	0,000
<b>Covar of</b>	-0,180						
<b>INC</b>	0,851						

## **C. Debates on Legalisation of Illegal Immigrants: An analysis of parliamentary discussions in Germany and France**

### **1. Introduction**

Illegal immigration poses new challenges for European states and their immigration policies. Illegal immigration is a social fact in many countries that cannot be neglected and state authorities encounter its consequences every day. The European states are all forced to respond to this problem but are also affected by the immigration and residence of illegal immigrants differently and they differ in their reactions to it. Actually, illegal immigration should not exist at all according to the political will of the state. That is why it is illegal. On the other hand, state authorities must be able to cope with illegal immigrants in certain situations, especially for humanitarian needs, e.g. when immigrants are seriously ill. Most important, states are often unable to settle this situation because illegal immigrants cannot be deported easily in many cases. There are practical reasons for this, e.g. the lack of travel documents, but also judicial barriers such as constitutionally granted rights that bind the state to certain standards of human rights (Joppke 1998: 284; see also section A 2.2). It is not possible to stop illegal immigration completely or even to reduce it significantly because illegal immigrants elude state authorities. A tight control of immigration flows is not feasible for financial and practical reasons. Furthermore, the tightest possible control of the immigrant population is not advisable because of civil rights standards and the maintenance of social cohesion. Thus, the state must often accept illegal immigration as a fact of life. This fact, however, is not limited to state policies on illegal immigration, since modern states also try to prevent many other types of behaviour such as crime or unhealthy behaviours because the state knows they will never completely solve the problems. In the case of illegal immigration, there is an additional element that is lacking in the case of most other illegal acts, namely the continuing existence of known illegal situations, e.g. if illegally residing foreigners cannot be expelled. The state is not able to implement its own law and has no remedy to fix this situation because the legal order does not provide for self-rescinding rules. Thus, the state is confronted with two alternatives: continue the defective implementation of the current law or admit that its rules are systematically undermined by social processes beyond its control. All states have to choose their own strategy regarding illegality and many of them allow for legalisation under certain circumstances. These reactions can be very different. They range from mass legalisa-

tion programs with general preconditions (residing and working in the host country for a minimum period) because the state cannot cope with the large number of illegal immigrants in case-by-case legalisation of people with intricate legal contexts. Legalisation is thus a very delicate matter since it involves admitting that existing legal rules are not sufficient to face certain social facts. New ways to respond to these problems must be found while the original immigration rules remain untouched. Exceptional rules thwarting immigration legislation run parallel to the official policy.

France and Germany chose different answers to the problems posed by illegal immigration. The aim of this paper is to identify differences and similarities in the debates on legalisation in France and Germany and to describe how legalisation is presented and perceived by political actors in both countries to legitimise their practice. This unique instrument for regulating social developments promises to be an interesting research topic that brings up a number of questions. In particular, the following questions are raised:

*How do governments define legalisation?*

The political developments in France and Germany have placed legalisation differently within the political debate, as will be shown in the next section. There is a clear definition of legalisation that is used in this chapter, namely awarding a residence permit for a certain period of time to a person who is currently not in possession of a valid permit. However, not all states declare this administrative act as legalisation, but may use other expressions or other administrative processes so that the character of the act is not immediately evident at first glance. Such an administrative procedure may be used to disguise the real intention of the process or may be a historical coincidence of the general administrative rules. This question can be partially answered by a description of the administrative and political reality in both countries. Additionally, it is also interesting to look at how political actors take up these opportunities for disguise in public debates.

*Which aspects of legalisation are described as problematic in each national context?*

In both countries, some politicians describe legalisation as problematic and detrimental. They hint at several sources of danger, such as the loss of coherence in the legal order within the field of immigration policy or a pull effect leading to an increase in illegal immigration, to mention only two possible interpretations. It is of special interest to demonstrate the effect of how legalisation is defined on the way the problem is perceived. Furthermore, it is important to consider the influence of the experiences with immigration policy and espe-

cially legalisation. Politicians of a country that has seen several legalisation campaigns may talk about this subject in a different manner than politicians in a country where legalisation has never been executed. *Régularisations* have repeatedly been a topic of French domestic policy, where the opposition took a contrary position from the government in the question of whether legalisation is a feasible way to solve the problem of illegal immigration and the presence of foreigners without residence permits in France. This result should lead to a relatively lively and open debate on legalisation which, moreover, is regarded as a possibly extreme but yet normal instrument in immigration policy. In contrast to the French experience, legalisation is seen as unacceptable by the large majority of politicians in Germany. Conflicts concerning illegal immigration arise from secondary questions like access to medical treatment or public education, but to a much lesser extent from debates on legalisation.

*How is legalisation legitimised under these adverse conditions?*

Because the empirical situation of illegal immigration in Germany and France are basically comparable, one would expect that the stance towards legalisation is more or less the same. It is not, however, because of the indicated practice of *régularisation* in France. The full explanation of the different reactions is beyond the scope of this study and must be investigated in a different study. Rather, I try to answer the question of how the problems with definitions (see the second question) require different strategies for legitimising legalisation practices. Both states cannot avoid finding solutions to certain inevitable problems that illegal immigration or the presence of foreigners who cannot be legalised bear. In order to not endanger the widely shared pattern of interpretation that defines legalisation as heavily disadvantageous, politicians must give a different interpretation of these sometimes necessary legalisations. It is an especially interesting to investigate the case-by-case legalisation in Germany, where legalising immigrants is considered “taboo” (Leveau, Wihtol de Wenden, and Mohsen-Finan 2001). Although a large number of French politicians are equally against legalisation, one would suppose that their legitimising strategy is affected less by basic principles because this instrument is used more openly.



## 2. French and German policies towards illegal immigration

### 2.1 France

The number of illegal immigrants in France cannot be measured exactly (see section A 1.1). The governmental *Comité interministériel de contrôle de l'immigration* states in its fourth report to the parliament that “[l]’immigration irrégulière est difficile, voire impossible à quantifier” (Secrétariat général du comité interministériel de contrôle de l’immigration 2007: 132). However, the French government has made public their working estimates of illegal immigrants in France on several occasions. The report of the *Commission d’enquête du Sénat sur les régularisations d’étrangers en situation irrégulière* stated in 1998 that “[u]ne estimation du nombre des clandestins entre 350.000 et 400.000 ne paraît pas éloignée de la réalité” (Masson and Balarello 1998: 22). This detail seems to be too exact to believe, so Minister of the Interior Nicolas Sarkozy was more realistic when he proposed a margin of estimation between 200,000 and 400,000 illegal people with 80,000 to 100,000 additional illegal immigrants each year (Commission d’enquête 2006: 43). These numbers show that the scale of illegal immigration is comparable to Germany. State responses to this problem, however, differ somewhat from Germany’s approach insofar as the French government did not carry out exclusively restrictive actions. Several smaller and larger legalisation campaigns have helped many foreigners residing illegally in France to acquire a valid residence permit.

This legalisation process started in the *Trente Glorieuses*<sup>21</sup> when France imported labour like other Western European countries. Many entered France as false tourists who did not participate in the normal procedure of the ONI (*Office national de l’immigration*). The national authorities reacted to this phenomenon by legalising them *ex post*, which was not an exception but rather the rule. This development reached its climax in 1968, when 82 percent of the admitted people in France were legalised (instead of admitted through the process provided for by the ordinance of 1945). Immigrants just entered the country, started to look for a job, and then received their fully valid papers (Hollifield 1992: 45-73). More than 1.4 million workers out of a total of 2.35 million between 1948 and 1981 were regularised, i.e. entered the country without previous pre-selection by the ONI, which seemed to have lost control over immigration (Lebon 1982).

But since the recruitment of foreign workers stopped in 1972, legalisation was restricted to humanitarian cases and applied only in exceptional cases (Secrétariat d’État aux travailleurs immigrés 1977: 19). It was intended to clear up situations like the legalisation

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<sup>21</sup> The years from 1945 to 1973 in France are named “the glorious thirties” because of the quick economic growth during this period.

campaign in 1981. Legalisation continued, but at a much lower level than before. Marie (1988: 28) estimates that around 50,000 people were legalised between 1975 and 1981.

After a smaller legalisation campaign in 1973 with 4,500 legalised people (DeLey 1983: 201), the largest amnesty was carried out in 1981: 131,000 people out of 149,000 applicants were legalised. Through an amnesty for asylum seekers, 14,500 people out of 49,000 applicants were given a residence permit in 1991. In 1997, about 80,000 people out of 140,000 applicants were legalised, mainly because of family ties (French spouses or children). Beyond legalisation in form of campaigns, there is also a permanent legalisation rule concerning parents of French children, spouses of foreigners legally resident in France, foreigner minors who entered France before the age of ten, and foreigners residing in France for ten years. An additional section was introduced for those foreigners who cannot be subsumed under these categories but have personal or familiar links with France. If one looks at the composition of the approximately 20,000 legalised foreigners in 2003, it is evident that this norm fulfils the same function as the “small asylum” or the toleration (*Duldung*) in Germany. In Germany, foreigners who are ill, foreigners with children, and those coming under article 8 EHRC are also protected. However, this protection is not linked with a “legalisation”. Only the first category in table 1 concerns “real” illegal immigrants. For them, there was no possibility of legalisation in Germany until recently.

Table 1: Number of legalised foreigners in 2003 per category (France)

More than ten years of residence in France	3,846
Foreigners who arrived before the age of ten	1,763
Parents of French children	8,159
Art. 8 of the EHRC <sup>22</sup>	10,643
Ill foreigners	3,370

Source: Weil (2004: 490-491).

In sum, French law does not assign a special status to those people who are obliged to leave the country but cannot be deported because of practical and legal reasons. The authorities accept the fact that aliens without valid papers continue to live illegally in France even though they are known. French law usually does not try to conceal the illegality of their residence by awarding them a status between legality and illegality as Germany does with tolera-

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<sup>22</sup> Article 8 – Right to respect for private and family life:  
 (1) Everyone has the right to respect for his private and family life, his home and his correspondence.  
 (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

tion. These provisions were restricted, however, and temporarily and completely abolished in the 1990s by the “loi Pasqua” in 1993 before the subsequent socialist government introduced less restrictive rules. This rule came under pressure again, as will be seen in the parliamentary discussions analysed below. A large point of discussion concerning the legalisation of illegal immigrants in recent debates is whether they are allowed to marry a French citizen immediately and can legalise their status thereafter or whether they must first leave the country and pass through the normal process (marriage abroad or visa for the purpose of marriage in France). Since the conservative government with Minister of the Interior and later President Nicolas Sarkozy intensified the fight against illegal immigration and tightened the deportation policy, legalisation is again a subject of public debate. Unlike the debate in Germany, conservative politicians in France are not generally against legalising foreigners. These characteristics point to an acceptance of illegality to a certain extent in France. Thus, although the approach of state authorities is predominantly repressive and also contains the same range of restrictive instruments as in Germany, there are some liberal traits in the treatment of illegal foreigners, especially when leftist parties are in power.

Apart from these deviations in the actions of the governments, the political process differs quite a bit as well. While illegal immigration is almost not present on the political stage in Germany, it is much more important in immigration politics in France. Throughout the immigration history in the Fourth and Fifth Republic, there were protests by illegal foreigners who wanted their situation to be improved (Laubenthal 2007: 225; Lindemann 2001: 80; Whitol de Wenden 1994: 98-99). This fact is especially true with respect to the actions taken by immigrant associations and their support organizations from the 1990s on. The regularization campaign of 1997, launched by the socialist government under Lionel Jospin, and certain relieving measures of the preceding conservative government resulted from protests of illegal immigrants, which spread to French civil rights groups (Laubenthal 2006: 66). Smaller policies like the legalisation of Turkish workers in the garment industry in 1980 (Poelemans and de Sèze 2000), or the legalisation of a few workers in 2007/2008, were the result of protest actions too. Thus, there is continuously a sporadic political process between the government and groups of illegal immigrants, which is totally non-existent in Germany.

The political debate on illegal immigration is additionally stimulated by the right-wing extremist Front National (FN) under its president Jean-Marie Le Pen, a party which has seen constant electoral successes since the 1980s. This success has forced the other parties, especially the neo-Gaullist and rightist liberals which are direct rivals of the FN, to sharpen their

images in this policy field. Illegal immigration belongs to the core issues of immigration politics and it most often comes up when the debate is brought around to immigration in general.

## **2.2 Germany**

To date, there is no scientific estimate of the illegal population in Germany (see section A 1.1). Vogel (1999: 177) presumes that estimation would be much more difficult than in the United States. There could be some chances to approach an estimation that satisfies scientific standards if the authorities would cooperate. This cooperation has not happened, however, and the responsible ministries have never published any estimates. Alt (2004: appendix 4) reports that the Federal Ministry of the Interior assumed in 1991 that the number of illegally resident foreigners amounted to 500,000. On the basis of the available indicators and some best estimates, Jörg Alt, the most prominent researcher on illegal immigration in Germany, comes to the conclusion that their number is “between 500,000 and one million, rather closer to one million” (ibid.). However, these estimates are not derived from scientific methods, which their proponents admit. The same applies to figures which turn up from time to time in the newspapers. Although these high numbers would imply a lively discussion on illegal immigration in Germany, there are no signs of that. In 1970, the government of Chancellor Willy Brandt even planned to launch a legalisation campaign for Turkish workers who entered the country outside the guest-worker programme. The trade union federation (DGB) urged the federal government to legalise these illegal immigrants, but these plans were rejected by certain state governments (Schönwälder 2001: 502). Although Brandt had considered a legalisation campaign, it disappeared from public discussion and was never again seriously proposed. Apart from some declarations in the jubilee debt campaign before 2000 (Kömür n.y. 4) and some aspects of the asylum discussion in the early 1990s, illegal immigration did not enter the political stage again. It was even left out of the comprehensive reform of the aliens law from 2001 to 2004. The subject of legalisation was even mentioned less often. Political actors and the public paid some attention to the problem of illegal immigration when the number of asylum applications reached hitherto unknown heights in the early 90s. Except for these occasional points, illegal immigration is not in the focus of German politics and discussion about it is limited to a small number of people and organisations involved (Cyrus, Düvell, and Vogel 2004: 70). In general, the approach of state authorities towards this issue is strongly influenced by security concerns and a law-and-order mentality (ibid., 57). The level of control is extraordinarily high in Germany (Vogel 2003: 174; Cyrus and Vogel 2006: 76) and the administration reacts immediately if it hears about a person in an illegal situation. If the for-

eigner is not deportable, he or she is issued a “toleration” (*Duldung*) so that this person loses his or her illegal status although he or she still has no residence permit.

Only the post-communist PDS (*Partei des Demokratischen Sozialismus*, now *Die Linke*) and the *Grüne* picked up the idea of legalisation and declared themselves in favour of it (the PDS even demanded a general amnesty). These proposals fell on deaf ears and were not answered by other political actors. However, the debates about how to handle the problem of tolerated people who have lived in Germany for a long time also touches on the issue of legalisation, although this term was not expressly mentioned. Members of this group do not have a valid residence permit but are given a document (toleration), which brings them out of total illegality so that they are in a grey area. They are in a very unstable position because their toleration must be prolonged in short intervals. This issue should have been resolved by the Act on Immigration (*Zuwanderungsgesetz*), which came into force on 1 January 2005. Because this solution was not satisfying, the conference of the state ministers of the interior (*Innenministerkonferenz, IMK*) agreed on a regularisation rule that allows tolerated people to apply for temporary residence permits if they fulfil certain preconditions. This rule concerned only around 160,000 people, however (Innenministerium Schleswig-Holstein 2007: 6). Besides these special issues, the protection of the borders was the centre of public policy in the 90s because after the fall of the communist regimes in Eastern Europe, immigration pressure increased. This focus on border protection is a result of the fact that Germany had external EU borders until 2004 while France is surrounded by EU member states, although there were several refugee ships that were stranded at the French Mediterranean coast. Only very recently a discussion in the parliament about illegal immigrants was sparked because of two separate legislative initiatives of the *Grüne* and the *Linke*. The proposal of the Greens, which was processed in the relevant parliamentary committee, including a hearing of experts, contains several relief measures for illegal immigrants such as improved access to the health system and public education.

Again, in contrast to France, even right-wing extremist parties did not manipulate this topic for electoral success. It seems that asylum has played that role because the high number of asylum seekers was highlighted by public discussion and ways to curb the inflow of refugees were sought. Probably this topic had the same function in Germany as illegal immigration in France, where the number of asylum applicants never reached such high numbers as in Germany and remained more or less stable.

As already mentioned, the special status of toleration in Germany corresponds to situations of illegality in other states, including France; the same fact is labelled two different

terms. Tolerated foreigners in Germany would be named illegal aliens in France because they are people who do not possess a residence permit and are obliged to leave the country. Because of certain reasons, however, they are not able to leave the country or, more likely, state authorities cannot repatriate them because of a lack of travel documents, non-disclosure of their identity, or humanitarian reasons. The Conference of Ministers of the Interior decided in November 2006 to issue residence permits for tolerated people:

- Who have at least one child who is still a minor and attends kindergarten or school, and have resided in Germany for at least six years or
- In all other cases, who have resided in Germany for at least eight years and
  - Are employed on the basis of a durable work contract and
  - Are able to earn their families' living without social benefits (and will be able to do so in the foreseeable future) and
  - Possess a living space that is large enough for them and their family and
  - Are able to speak German at level A2 of the Common European Framework of Reference for Languages

After disputes between the political parties, a legal regulation was included in the above-mentioned act so that all people who fulfilled these criteria on 1 July 2007 were awarded a residence permit until 31 December 2009 even though they were not in the possession of a work permit. This permit was issued on the same day so they could try to find a job. After 31 December 2009, the residence permit will be prolonged only if the applicant proves that he or she is able to earn his or her (and his or her family's) living on his or her own and that he or she has been working a majority of the time in the past.

In 2007, 22,858 people applied for a residence permit on the basis of the corresponding articles 104a and 104b AufenthG. Applications were accepted from 11,765 people, (Bundesregierung 2008) from which 9,088 people were given a temporary residence permit in connection with a work permit in order to seek employment. The original stipulation of the IMK led to 14,750 temporary residence permits and over 28,000 work permits. The reforms also included the stipulation that tolerated people are allowed to work after four years of residence in Germany.

This group of tolerated people is not illegal in the strictest sense of the word because they are allowed to be in Germany, although their obligation to leave the country is only suspended. Thus a status between legality and illegality was created which does not exist in France, where this group of people would be qualified as illegal (or *clandestin*). Contrary to French aliens law, the German legal system has always comprised the basic principle that an illegal stay should not be rewarded and therefore has no provisions for legalisation (Hailbronner 2000: 251). Only very narrow groups of people are awarded residence permits after they

have been in a lengthy administrative process reserved for finding solutions to older cases (*Altfallregelungen*).<sup>23</sup>

In sum, illegal immigration and legalisation in general are not as intensely discussed as they are in France. Furthermore, measures explicitly called legalisation have been an instrument of immigration policy in France while it is even not a point of discussion in Germany. This situation is also a result of the absence of a large extremist party on the right wing of the political spectrum that could exploit this topic, and a lack of protest actions by associations of illegal immigrants and their supporters. Neither this group nor “real” illegal immigrants organised protests against their situation, not to mention strikes of illegal workers as in France. The reason is probably that Germany has been very reluctant to legalise foreigners who entered the country illegally. However, in both countries there are people who cannot be deported and therefore are offered a limited residence permit. German politics invented the status of tolerated people for those groups that consist mostly of former asylum applicants. Similarly, older case solutions for groups were allowed only for former asylum seekers, not for foreigners in general.

### 3. Literature Overview

There are many studies analysing qualitative data and discourse in particular. In the following survey on the relevant literature, I will show how parliamentary output has been analysed in general and present research designs and results of investigations concerning discourse on (legal and illegal) immigration. Finally, I will explain how the present work fits into the framework of existing literature.

Parliamentary output has been the object of several discourse analyses. Studies of historical linguistics have highlighted the use of language and how it has changed in the last decades (Burkhardt 2003; Holly 1982; Dörner and Vogt 1995). These studies are in the tradition of historical semantics, a research field that was developed in the 1960s in France (Robin 1973; Dubois 1962; Prost 1969). It analyses the use of words and stylistic forms in the course of the history of parliamentarianism. In contrast to these analyses, other studies of parliamentary debates scrutinise a cross-section of parliamentary documents or even single speeches and describe the inherent structure of each speech and the rhetorical tools employed to strengthen

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<sup>23</sup> There were *Altfallregelungen* in 1991, 1993, 1996, 1999, and 2001, most of them for (former) asylum seekers who did not return and could not be deported. Most of these schemes were confined to people of certain nationalities who had been staying in Germany a long time (König 2000).

arguments (for the French *Assemblée nationale* see Labbe 1986; Desmarchelier and Bonna-fous 1999; Van der Valk 2000, 2001, 2003). A number of studies on the subject of immigration in both parliamentary as well as non-parliamentary discourse also exist, even covering its illegal form. Most of them were carried out by linguists. Rojo and van Dijk (1997) scrutinize a parliamentary speech given by the Spanish Minister of the Interior, Mayor Oreja, which he gave on the occasion of a debate on the expulsion of 103 Africans from the Spanish enclave of Melilla. They show “how social (contextual) and discursive factors contribute to the (de)legitimising of text and talk, such as the legitimacy and authority of the source, true or credible representation and appropriate form” (ibid., 561). To this end, illegal immigrants are represented negatively as criminals and detrimental to Spain while Oreja portrays himself and his conservative party as law abiding.

Similarly, Ineke van der Valk (2003: 340) studies the “discursive properties of French parliamentary discourse”. Unlike Rojo and van Dijk, she does not concentrate on only one single speech but investigates the rhetoric strategy of the governing centre-right parties UDF and RPR<sup>24</sup> in debates on immigration and nationality in 1996 and 1997. She analyses the topical structure, the strategies of representing other politicians, the use of argumentative fallacies, and rhetorical instruments. Using this grid of linguistic devices, van der Valk is able to show how the rightist parties legitimise their policy proposals and de-legitimise the immigration policy of the left by the use of rhetorical instruments.

Thomas Niehr (2000) is more open in his interpretation and also includes political considerations. He compares parliamentary discourse in Germany and Switzerland with regard to the changes of the asylum laws in the 80s and 90s. To this end, two debates (of several hours each) in the German *Bundestag* and the Swiss *Nationalrat* are analysed. The research design allows for finding out which role institutional settings play in political debates because both parliaments have different functions. Swiss politics are shaped by the inclusion of all societal forces in a concordant democracy since all major parties form a common government. The German parliamentary situation, however, is characterised by a sharp contrast between government and opposition. Niehr (ibid., 113) follows the approach of comparing the “history of mentality” and investigates whether and how these differences are reflected in the use of language by German and Swiss parliamentarians. He finds that on the one hand the arguments presented in the debates are very similar. There are, on the other hand, differences in the argumentative style because the debate in the *Nationalrat* is much less confrontational than in

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<sup>24</sup> *Union pour la démocratie française*, founding member of the *Mouvement démocrate* under its president François Bayrou and the *Rassemblement pour la République* (RPR), disbanded in 2002 to form the new *Union pour un mouvement populaire* (UMP).



the Bundestag. The reason for this is that the real opposition in the Swiss political system are the citizens, who are allowed to launch referenda on almost any topic, and that the parliamentary groups come to an initial agreement before the plenary sessions.

Besides these studies of parliamentary debates, other researchers have focussed on general public debates. Martin Wengeler (2000) statistically compares public discourse in Austria, Germany, and Switzerland on the basis of newspaper articles. Unsurprisingly, the discourses in these states share many argumentative similarities, but the debate in Germany is more diverse and controversial than in the two other countries (*ibid.*, 154), while the anti-immigration discourse in Austria is on a more moderate level or concentrates on anti-immigration movements and is similar to the discourse in Switzerland.

In contrast to Wengeler's approach, which includes many quantitative elements, Karin Böke (2000) compares the use of language by German and Austrian newspapers and comes to differentiated linguistic conclusions, such as a more reflexive use of language by German media and the more important function of catchwords. Such linguistic investigations also sometimes focus on certain rhetorical tools like metaphors. Charteris-Black (2006), for example, has identified natural disaster metaphors and container metaphors as the two most important types in the British right-wing political discourse during the 2005 election campaign.

Mehan (1997) analysed the debate on illegal immigration during the proposition 187 campaign in California, which was directed against children of illegal immigrants and their free access to public education and health care. Unlike the studies described above, Mehan's investigation is a frame analysis, which is often used in political and social science (Goffman 1974; Gamson 1988). This research design allows for detection of different "frame arguments" deliberately used by competing discourse coalitions (outside parliaments) to persuade other actors. The proponents of proposition 187 succeeded in winning the majority of voters through the strategic use of argumentative devices that stressed the harmfulness of illegal immigration to California's society and superseded more objective and scientific criticism of the proposition. Thus, "by framing the debate in us vs. them terms, presenting compelling anecdotes of illegal aliens taking jobs and abusing social services and appealing to the self-interest of disaffected citizens, proponents of Proposition 187 successfully countered universalistic appeals to the general good, a higher morality and universal human rights" (Mehan 1997: 266).

Triandafyllidou (2000) generated the empirical material to be analysed by conducting interviews with public officials, NGO representatives, and trade unionists in Greece, Spain, and Italy. The division between a humanistic and solidarity approach and nationalistic, dis-

criminary approach characterises the political discourse on immigration in these countries. A third discourse that stresses law and order seems to link these two opposing views on immigration. Moreover, people interviewed in Spain tended to accept cultural diversity as a result of immigration more than Italians and Greeks, possibly because of the multinational character of the Spanish nation.

As this short overview shows, there is much work by linguists concerning the use of language in debates on immigration in general and in parliaments. Other studies by social scientists often do not use a certain category of texts or speakers for their analysis, but rely on more broadly collected material like newspapers. Concentrating on parliamentary debates, especially in a cross-country comparison, has the advantage of a standardised corpus of texts that are generated in the same situation. The statements made in these speeches are also less influenced by subjective, personal interferences because the politicians speak as representatives of their political group. In contrast to most of the narrative or frame analysis, I do not investigate the process of policy making or the influence of discursive devices on it. The approach of this study is similar to that of Bleses, Offe, and Peter (1997). They describe legitimacy strategies in the field of social policy through the analysis of debates in the *Bundestag* and view the parliament as a market of knowledge with specific market rules.

This survey of the existing literature has also shown that legalising has not been a subject of qualitative approaches to date, unlike the field of immigration in general. This is amazing given the paradox of clear legal rules and fuzzy practical policy with regard to illegal immigration in which states are forced to ignore their own laws.

### *Why analyse debates in parliaments?*

The research question and method of this chapter resembles that of other studies with a background in social constructivism and discourse analysis. I will briefly describe them and explain how my work relates to them. By doing this, I will also clarify the theoretical approach of this study.

There are different forms of “discourse analysis” that differ in methodological and theoretical issues. Linguistic approaches are very common; usually they investigate the use of language by discursive actors in qualitative and quantitative ways (see the literature survey). Historians also make use of discourse analysis to describe past discourse on specific topics of historic interest ([insert reference]). Social scientists, however, do not focus on language as an

end in itself but regard discourse as a social action that is constituted by individuals' convictions, persuasions, and knowledge. These attributes, however, are not objectively given, but depend on the social context into which each of us is placed. What we think of something causes us to follow a certain action; the external cause does not motivate us by itself. An external event does not become a cause before if we do not regard it as such and bestow meaning on it. External factors must be internalised and processed to form a subjective sense that finally guides human behaviour. There are indisputably external events, but they don't have an immediate effect on social reality. The consequences of these events depend on how individuals or larger social units interpret them, whether they regard them as a catastrophe or as a minor occurrence, and whether these external factors contradict or strengthen previous perceptions and knowledge. External events thus exert their influence indirectly.

Discourse analysis in this sense aims at detecting processes and practices of the production and dissemination of knowledge in the form of institutions (Keller 2007: 59). Discourse assigns socially accepted meaning to events and objects. Thus, what was hitherto only a subjective assertion can become a socially constructed truth after it had undergone this process, especially if it is passed on to third parties who were not involved in the initial generating event (Berger and Luckmann 1980: 49ff). Knowledge<sup>25</sup> becomes institutionalised and is valid independently of time and situation. Therefore, it creates legitimacy and a story is told that explains the institutional order and its singularity in cognitive and normative terms (Keller 2006: 121). This socially constructed reality is legitimised by theoretical schemes, systematic theories, or even extensive systems of meaning such as religions. It does not follow, however, that the distribution of power between the social actors is negligible. When different epistemic worlds are in competition with each other, the relevant groups try to push through their interpretations and actions. In that case, the interests of groups of people and the distribution of power in a social entity decide which socially shared set of knowledge or symbolic order will gain more or less general acceptance (Berger and Luckmann 1980: 117).

The approach of this chapter is much less far reaching. By analysing parliamentary speeches for a limited period of time, it is not possible to reproduce the discourse(s) on legalisation because the political process that led to institutionalised or quasi-institutionalised perceptions of legalisation has not been investigated. Social actors who participate in establishing the discourse and the effect of the discourse on the political reality are not included in the study either. Furthermore, it does not encompass less comprehensive interpretative ap-

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<sup>25</sup> The whole bundle of mental products like beliefs, perceptions, convictions, and "objective" knowledge is usually called knowledge in sociology.

proaches such as the analysis of patterns of interpretations in the tradition of Oevermann (2001b: 53), who criticises the above outlined social constructivist approaches for not acknowledging that there is a social reality independent of perceptions and the production of human sense. Researchers using this approach are interested in implicit, tacit knowledge of single individuals or the whole society. This implicit knowledge is not available through discourse, although it guides the behaviour of social actors (Oevermann 2001a: 6). However, the latter do not make this knowledge explicit because they are often not aware of it even as it enables them to judge the appropriateness of their actions. These patterns of interpretation cannot be detected by questioning. Even self-representations such as parliamentary debates cannot be used because they are free of all spontaneity that could reveal the patterns of interpretation below the surface of spoken or written expressions (Oevermann 2001b: 61).

Parliamentary debates are characterised by a target group that is very heterogeneous and virtually consists of the whole population of Germany or France, respectively. The main aim of the speakers is not to convince members of the other parties, because that would be in vain. All arguments are known by both sides and all possibilities for consensus have been mined before. Furthermore, deeply rooted beliefs are very unlikely to be changed by parliamentary speeches. Debates in the *Bundestag* and the *Assemblée nationale* are not negotiations but rather an exchange of well-known statements. The purpose of speeches in parliaments is to seek support in the public and justify the party's proposals while discrediting those of the political rivals (cf. Herzog 1993: 26). This kind of argumentation, "rhetorical persuasion" in Elster's (1991) words, comprises activating positive or negative emotions in the public by presenting convincing reasons for or against certain statements and policies. This is the main form of speaking in parliamentary debates and certainly more important than pure rational arguing or negotiating, the two other sorts of political speech acts, according to Elster.

Therefore, the empirical material chosen here should be appropriate for answering the questions raised in the introduction. Following the approach of Bleses, Offe, and Peter (1997) in their analysis of public justifications in the field of social policy in Germany, I interpret the parliament to be a "market of knowledge". The parliament is a market of knowledge where actors must compete for public support by generating legitimacy for their decisions and statements (Nullmeier und Rüb 1993: 28). There is supply of interpretations and political positions (and decisions) provided by political actors who demand legitimacy and support. The speakers try to gain this support and generate legitimacy through rhetorical means. To this end, they refer to convincing arguments or produce a favourable attitude towards their posi-

tion. The public doesn't provide its goods immediately, however, but through the usual channels that are used to show support, such as elections.

Politicians, on the other hand, can try to improve their position in relation to their rivals if there are monopolies or oligopolies of knowledge. Thus, the market power of one part of the parliament can exceed that of the other. In this situation, the more powerful party may even be strong enough to achieve an argumentative closure of the debate if their interpretation of a social fact is absolutely or relatively dominating, such that competing perceptions do not have a chance to be heard. One interpretation prevails over another if it is accepted as the correct interpretation of a social fact by the majority (ibid., 30).

#### **4. Methodology**

The research process in qualitative analysis is much more open to different interpretations and the results are less rigorously testable for false interpretations than is the case with numerical investigations. In general, there are two methodological approaches to qualitative data. First, the material can be analysed deductively by generating categories from the text. Research in the tradition of the grounded theory (Glaser and Strauss 1998) deduces theoretical assumptions and exact research questions from the empirical material. Therefore, the researcher generates many categories through the open coding of small pieces of the text. These categories are later selected and summarised by axial coding, which puts the categories in relation to each other. Through selective coding, a core category is identified that denotes the central phenomenon and around which the other categories are grouped. This strategy, however, is not appropriate for my research in its pure form because the research questions were fixed before the empirical research started.

This conclusion leads to the second form of qualitative empirical research. A set of categories is built and then confronted with the empirical material, which is analysed by assigning the correct categories to the relevant parts of the text. Unlike studies that are inspired by the grounded theory, this approach puts theoretical considerations and research questions at the beginning, which are then tested or answered with the help of the empirical material. A well-used and well-known method is Mayring's (2003) qualitative content analysis (*Qualitative Inhaltsanalyse*). This is a tool to reduce the information given by the text so that at the end of the analytic process a system of categories replaces the running text and represents it in a heavily reduced form. The standard procedure comprises three techniques: First, the text is

paraphrased and unimportant and redundant paraphrases are deleted while similar paraphrases are combined. In the next step, these new statements are summarised as a system of categories and, thirdly, the categorical system is checked against the original material. This method is obviously less interpretative than inductive approaches like the grounded theory because it summarises rather than creates. Therefore, it must be clear “what one wants to interpret from the text. Without a specific question, without fixing the direction of the analysis, a content analysis is not conceivable” Mayring (2003: 50; own translation). It is very easy to combine it with content analysis in the traditional, quantitative sense because the smallest units of the reduced text, i.e. the single categories, can be counted.<sup>26</sup>

Because I seek to answer the questions presented above (section 1), the material must be approached while keeping in mind what should be searched for. Therefore, statements that will provide answers to these questions must be actively sought. The grounded theory as described above cannot achieve this. However, the pure qualitative content analysis according to Mayring is not very useful because it makes no sense to paraphrase the phrases given in answer to questions concerning legalisation in the documents. Therefore, I immediately allocated matching categories to each section of the text. These categories were broadly defined before the analysis began, following the research questions presented above, namely “definitions of legalisation”, “problems/opportunities associated with legalisation”, and “justifications for legalisation”. Other categories, including sub-categories to these theoretically deduced categories, were generated during the analysis. The category system is developed in an iterative process during the empirical analysis of the selected textual material (Gerhards 2005: 307). At the same time, I summarise these categories in main categories and relate them to each other to find a master category that reflects the complete view on legalisation from the respective group of politicians. Thus, the analysis is a mixture of deductive and inductive research methods, which is not unusual for qualitative research (Flick 2007: 419).

By using this methodological approach, it is possible to expose the structure of the debates and to compare the French and German cases with regard to the questions mentioned above. I will describe the exact contents of the patterns of interpretation in each country and, finally, compare them. The same system of categories is initially employed in both countries. During the analysis, however, some differences were detected that are then incorporated into the category system, although there were no fundamental gaps between the French and the German material that would have led to separate categorical systems.

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<sup>26</sup> Another method of interpreting qualitative data is sequential analysis which I don't describe here because it is more often used in hermeneutical approaches (Schwab-Trapp 2003: 171).

Beyond the pure qualitative analysis, some rudimentary classical, i.e. quantitative, content analysis, was also carried out. This is important to get a general idea of the relative importance of the problems, difficulties, dangers, and opportunities ascribed to legalisation and the strategies to defend policy proposals. It provides some insight for the comparison of France and Germany and the different political actors advocating a certain view on legalisation.

## 5. Data description

The original corpus contains all speeches published in the *Bundestags-Drucksachen* concerning immigration and foreigners. Out of this large data set, those speeches were selected that deal with illegality in regards to immigrants and immigration (see annex C I). To qualify for the final research material, these speeches must contain the phrases “illeg\*”, “undok\*”, or “duld\*”. Some texts were excluded because they dealt with illegality in another sense not related to immigration.<sup>27</sup> All speeches were held in the first, second, or third reading of law proposals that were either introduced by the governing coalition or by opposition parties. Often, the discussions on law proposals and government reports are combined in one item of the agenda whereby the government's proposals dominate because other proposals have no chance of being passed and really only have a declaring character.

It is important to note that legalisation in the strict sense was almost never mentioned in the German *Bundestag*. As already indicated, it is an object of debate, but in the guise of toleration. Apart from that, it is possible to find statements that can be used to draw conclusions concerning the practice of legalising illegal immigrants. Some speakers, for instance, explain that it is necessary to be tough on immigrants with non-stable forms of residence permits to avoid certain disadvantages for the society. When a speaker fears a "pull effect" because protection for asylum seekers has been expanded, the corresponding interpretation can be applicable in the case of legalisation measures that generate an even larger pull effect for unwanted immigrants. It is necessary to include such general statements about mechanisms enlarging the right to residence in the analysis as a proxy for the specific instrument of legalisation. This approach provides enough material (together with the debate on toleration) to achieve valid and reliable conclusions regarding the research topic of this study.

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<sup>27</sup> The lists of documents analyzed in this chapter and the modus of citation are attached in the annex.

The material for France was collected in a comparable manner. All sections in the minutes of the parliamentary sessions (without Sénat) dealing with issues of asylum, integration, foreigners, and immigration were automatically coded by MaxQDA if they contain the keywords “cland\*”, “regular\*”, “irrég\*”, and “illegal\*”.

Because vast parts of the material before and after the automatically coded sections were also read, much more than the originally marked parts of the texts were also employed in the analysis. The programme-induced coding was only used as a first approximation of passages, which could be interesting for the purpose of this chapter.

These preparations quickly revealed that the French corpus regarding legalisation is much broader. The search terms provide many texts for interpretation. Legalisation is a constant topic in French immigration policies (see section 2.1 above) and French members of parliament produce many statements on this issue. The plenary sessions also have a much more discursive character than the plenary sessions in the *Bundestag* because single amendments to law proposals are negotiated during these sessions in the presence of the *rapporteur*<sup>28</sup> as representative of the governmental majority in the parliament and with the attendance of the government (e.g. the responsible minister). The parliament immediately holds a vote on the respective amendment after it has been presented by its submitter. Thus, the plenary sessions fulfil some functions that in Germany are assumed by the parliamentary committees. In Germany, the negotiations are carried out in the committees and the stance of the parliamentary group in relation to the relevant issue is formed in the committee sessions (Ismayr 1992: 184; Börnsen 2001: 66). Plenary sessions therefore often have a declarative character and arguments developed in the committee are just reiterated. The French parliamentary records concerning a law proposal therefore consist of a first part with lengthy speeches as in the German *Bundestag* and a second part in which the amendments are discussed. This second part comprises shorter contributions, which usually contain a few sentences on the amendment by the applicant and a relatively short answer by the *rapporteur* and the representative of the government. Finally, there is again a debate with standard speeches that review the act and the negotiations.

The practical consequence is that there is much dialogue between speakers of the UMP and the Communist group because the representatives of the government are obliged to answer to the Communists' amendments, which the latter frequently put forward. This dialogue is missing in German parliamentary debates, where speakers of the CDU/CSU or other parties

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<sup>28</sup> The *rapporteur* is elected by the members of the commission which is appointed to deal with the law project. His duty is to present a report to the parliament concerning the results of the consultation in the commission before the public session.



only respond directly when members of the *Linke* intervene briefly during the speech of another member of parliament.

Speakers from the French political parties are involved differently in parliamentary debates on regularisations. Speakers of the government party UMP (including the Minister of the Interior, the state secretary, and the *rapporteur*) have the largest share in speaking time. This involvement can easily be explained by the parliamentary rules that force the governing party to present their draft of the law and to respond to the critique of the opposition. Communists and the *Verts* (and other independent people and partisans of other left-wing organisations) form the *Gauche démocrate et républicaine*, which have the second largest amount of contributions to the debate. Even if the contributions of the Communists and the *Verts* are separated, they come close to the group *Socialiste, radical, citoyen et divers gauche*, which mainly consists of deputies of the *Parti socialiste* and is in the second position. The fourth political group, the *Nouveau Centre* is a centre-right party that was founded by former members of the UDF who disagreed with François Bayrou's decision to establish the *Mouvement démocrate*. The founders of the *Nouveau Centre* wanted to continue the cooperation with UMP and UDF and are part of Nicolas Sarkozy's *majorité présidentielle*.

## **6. Quantitative Analysis: Legitimizing advocacy or rejection of legalisation**

### **a. Germany**

The structure of the argumentation can be depicted as in table 2, which shows the relationships between the argumentation strategies. The exact content of these interpretative patterns will be described in the next section on the qualitative analysis of the speeches. The quantitative distribution of the arguments gives some preliminary impressions of problem perceptions and legitimating strategies and are therefore presented before the in-depth analysis. First, some arguments point out the destructive elements of legalisation: pull effect, encouragement of abuse, and social conflicts. These are practical reasons against legalising foreigners because such processes promote illegal immigration (in the long run). This set of arguments can be dubbed "negative practical".

The next set of arguments is similarly directed against legalisation, not for practical reasons but because of normative considerations. Rewards for illegal acts partly belong to this group of interpretations, which I will call "negative normative". Rewarding illegal stays in Germany by issuing residence permits is an incentive to commit an illicit act and attracts ille-

gal immigrants. This is the negative practical part of this argument. On the other hand, there is often the implicit assumption in the background of this argument that it is ethically not admissible to not prosecute these illegal acts.<sup>29</sup> This view is advanced not so much because of the practical consequences of this action (more illegal immigration) but owing to legal principles and the demand for justice: All people of foreign nationality are obliged to abide by the law of the state that receives them. It is unjust to demand that one group observes the law while in other cases a breach of law is accepted. The order-of-the-law argument also results from basic normative considerations, which regard the coherence of the law as an absolute value that must be preserved by all means.

Arguments in favour of legalisation can also be subdivided into practical and normative patterns of interpretation. Many speakers explicitly refer to practical aspects in legalising immigrants: Some of them are already well integrated, so it makes no sense to demand their repatriation; others cannot be deported because of legal and practical reasons, and this situation will not change in the foreseeable future. These practical positive arguments can also be the result of, or associated with, normative positive arguments such as humanitarian reasons, which are often used to justify the legalisation of foreigners. In that case, giving illegal immigrants papers is considered a duty because of humanitarian standards or even national or international rights, e.g. human rights. This is the only family of arguments that advocates legalisation from a normative perspective.

Table 2: Argumentation in Germany

	Pull-effect	encouragement of abuse	social conflicts	reward for illegal act	order of the law	integration/pragmatism	humanitarian aspects	total
CDU/CSU	11	4	3	9	1	2	1	31
SPD	-	-	1	-	-	9	5	15
FDP	-	1	3	-	3	2	1	10
Grüne	-	-	-	-	-	2	4	6
Linke	-	-	<i>1</i>	-	-	4	4	9
Total	11	5	8	9	4	19	15	71

Numbers in *italics* indicate statements against this pattern of argumentation (counter-arguing). The *Linke* regards legalisation as a prevention of social conflicts.

The quantitative description in table 1 broken down by main argumentative styles shows that there is a certain preponderance of argumentation in the case of the CDU/CSU group in the *Bundestag* insofar as their number of contributions to the parliamentary debate is more than twice that of the SPD (right column). The smaller parties also have fewer remarks

<sup>29</sup> For illegal immigration and official reactions from an ethical perspective see Fischer (2007).

concerning legalisation. This is a result of the parliamentary rules that allow them less time for speeches.

The ideological boundaries between speakers in political debates on legalisation are clear: Members of CDU/CSU make use of arguments against legalisation. In particular, they caution against pull effects, see legalisation as a “premium for illegal immigration”, and claim that this instrument encourages the abuse of the legal regime by human traffickers and illegal immigrants. They also warn against social disadvantages and conflicts as a result of the inflow of illegal immigrants.

This line of argument highly contrasts with the structure of the contributions of the other parties. They do not employ the pull effect argument in connection with legalisation, which is thus exclusively used by the CDU. The second argument, exclusively presented by the CDU/CSU, is that awarding residence permits to people without valid documents means rewarding the illegal act of illicit entry into and residence in Germany (a reward for an illegal act).

Apart from one statement by the FDP, the view that legalisation would encourage the abuse of existing provisions for foreigners can be associated with the CDU, although it is less often used than the arguments mentioned above. Social conflicts and law-and-order arguments are also used by liberal speakers. The FDP generally tends to employ normative arguments. This fact is also proven by the qualitative analysis. They take a middle stance with regard to legalisation and use all of the legitimating strategies mentioned. Moreover, the rule of law is their main focus of argumentation, as three out of ten statements belong to this category.

The left-wing SPD, *Grüne*, and *Linke* do not regard legalisation as encouraging immigrants to abuse the asylum system or human traffickers who sense a good business opportunity. Even social conflicts are mentioned by the SPD only once (mass legalisation of several hundred thousand illegal immigrants overstrain the ability of the society to integrate foreigners, Rüdiger Veit, 16/16, 1191). The *Linke* even denies the existence of social conflicts and hints at the support of many groups and individuals for illegal immigrants (Sevim Dağdelen, 16/16, 1193).

The core concepts of the left wing in the *Bundestag* to legitimate their more or less positive attitudes towards awarding residence permits to people without documents are the pragmatic integration argument and humanitarian aspects. The first argument stresses the long-lasting residence in Germany of people without residence permits and their lack of deportability, which makes it necessary to find practical solutions. Some statements also ad-

dress the allegedly good integrations of these people, so their obligation to leave Germany is absurd. This pattern is predominantly chosen by members of SPD and the *Linke*, but also by all other parties, including the CDU/CSU (namely Wolfgang Schäuble, who takes a more differentiated view on immigration than many conservative representatives of his party).

Humanitarian aspects were important for speakers of the SPD, *Grüne*, and the *Linke* in their statements on legalisation and were not totally denied by CDU/CSU and FDP (one statement each). The relative importance of this argumentation for the *Grüne* and the *Linke*, the two most tolerant parties with regard to illegal immigrants and legalisation, is noteworthy because this point of view is mentioned at least as often as the integration/pragmatic argument. In the case of the SPD, the latter is clearly the pattern of interpretation used most often, probably because it is less demanding in regards to social acceptance than an active, normative approval of legalisation.

## 5.2 France

Most of the argumentative patterns found in the German debate can also be found in the *Assemblée nationale*. It is in the nature of things that the arguments for or against legalisation are limited and will be found in each national discursive space. Yet the use of the arguments may vary from one country to the other. One of the striking differences between the French and German debates on legalisation is that even the UMP, which is basically against legalisation, uses positive practical and normative arguments to defend legalisation. This could be interpreted as a political strategy to defend the curbing of aliens' rights because French laws provide legalisation rules, in contrast to Germany where illegal immigrants have virtually no explicit rights. To justify the reduction of legalisation possibilities it may be appropriate to demonstrate one's ability to compromise and not to behave like a bull in a china shop. On the other hand, such concessions are not necessary or even hazardous if one has to defend the status quo.

The quantitative analysis of the discourse on legalisation in France reveals less partisan conflicts than in Germany. The most important argument is the pragmatic perspective on *régularisation*: some people must be legalised because there is no other solution for them or they are integrated to a degree that makes their repatriation senseless. The UMP draws on this argument nearly as often as the PS (integration/pragmatism). Humanitarian aspects are also used to legitimize necessary legalisation by all parties, including the UMP. Together with the pragmatism argument, it is the main legitimating strategy of the extreme left. Pragmatism is also evident when speakers justify regularisation in order to avoid generating *ni-ni* (*ni expul-*

*sable, ni régularisable*) or to reduce their number. This explicit mechanism is employed by almost all political parties. Although it is not very important in numerical terms (15 statements in all), it shows a common national interpretation of the role of legalisation. The catchword *ni-ni* is used by all political actors and provides a frame for discussing the problem of illegal immigration. It has the potential to bring the discussion from a normative level to a technical level. In that, the basic problem of immigration policy (as presented by politicians), namely the presence of non-deportable immigrants, can be expressed in a very short term that captures the whole dilemma. When Germans speak of tolerated people, the functional equivalent of the *ni-ni*, this technical link between non-deportability and legalisation is less clear. Even more, German speakers are always reminded of their forbearance because they do tolerate the presence of certain people, which involves a generous attitude towards these people. Toleration is a very normative concept and not a technical term as it is in France.

Table 3: Argumentation in France

	re-ward for illegal act	Pul-l-effect	gen-er-ates conflicts	ame-li-orates	integra-tion/prag-matism	small number of people to be regu-larised	humani-tarian aspects	legalisa-tion as conse-quence of (hu-man) rights	une chan-ce pour la Fran-ce	coher-ence of the law	régulari-sation against illegal-isation	avoid-ing/reduc-ing ni-ni	to-tal
U MP	9	10	3		19	1	8 / 2	1 / 1	7	8	-	4	74
PS	5	3		3	17	3	9	3	-	1	7	6	57
NC	2	<i>1</i>		2	3	1	1	-	-	1	4	2	17
Les Ver ts	2	-	<i>1</i>	1	4	1	4	4	-	-	2	3	22
PC F	<i>1</i>	-		2	7	2	7	5	1	-	5	-	31
To-tal	19	14	4	8	49	8	31	14	8	10	18	15	200

Numbers in *italics* indicate statements against this pattern of argumentation (counter-arguing).

An almost exclusive UMP argument in favour of regularisation concerns the legalisation of people who could be beneficial to France, especially to its economy. The UMP included a stipulation to the aliens law in 2006 that allows the government to give illegal foreigners residence permits if they are expected to work in professions where the demand for labour is large. But the government is not interested in an expansion of immigration. Therefore, it finally restricted the legalisation to people with work contracts as *conducteur de travaux du bâtiment et de travaux publics, dessinateur du BTP, géométriciens, Chargé d'études techniques du BTP, and Chef de chantier du BTP* etc. (circular of 7 January 2008). However,

legalisation is theoretically illustrated as an advantage for the country, which demonstrates the flexibility in French politics towards this instrument of immigration policy.

Besides these common or similar strategies of legitimisation, there are also notable signs of divergence among the political groups. The UMP is the only party that maintains the existence of a pull effect while speakers of the PS and the NC assert the converse. This argument is less important in quantitative terms than those already mentioned and is controversially debated, in contrast to Germany, as will be stressed in the qualitative analysis. It hints at a more relaxed dispute on legalisation.

Another pattern of argumentation also displays traits of vivid debates in the *Assemblée nationale*. Speakers of the UMP characterise residence permits for illegal aliens as a reward for illegality: They just have to wait a certain period until they are eligible for legalisation (see section 2.2). This assertion is heavily contested by members of all other parties, who argue that nobody enters France or stays in France illegally with the intent to benefit from this exceptional rule. Moreover, they contradict the automaticity alleged by the UMP in the application of the 10-year rule. The reference to the small number of potentially legalised people (in case of legalising illegal foreigners who are residing in France for ten years or more) could also be subsumed under strategies to deny the existence of the pull effect or the premium for illegality.

The argumentation around the reward for an illegal act may also be regarded as belonging to the same family of arguments that can be categorized as “coherence of the law”. This legitimising strategy is also predominantly used by conservative speakers. The qualitative analysis must show whether coherence of the law means the same thing in both national contexts.

The idea that legalisation helps to avoid the illegality of people and immigration in general is peculiar to the discourse in France and cannot be found to the same extent in the German debate: Certain laws make immigrants illegal by refusing residence permits, so these permits should be granted through legalisation mechanisms. This argument depicts the flexibility of parts of French politics towards legalisation (which may follow from the necessity of dealing with problems resulting from incoherent immigration policy) and could be assigned to the pragmatic-positive umbrella group. Legalisation as a (precautionary) remedy against illegalisation has a relatively prominent quantitative position for the left but also for the *Nouveau centre*<sup>30</sup>.

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<sup>30</sup> This party is the pro-Sarkozy successor of the liberal UDF; the other heir to the UDF is the politically independent *Mouvement démocrate*.

A clear boundary that separates the UMP from the other parties is their view on conflicts. I differentiate between two distinct arguments: one says that legalisation leads to social conflicts (this idea is also discussed in the *Bundestag*) while the other maintains that social conflicts can be solved by legalisation. The last claim is therefore not just the counter-argument of the first. The necessity of distributing residence permits in order to solve social conflicts or at the behest of protests from interest groups is again pragmatic to the core. Although it is generally used in connection with other arguments, it is an example of pragmatism that puts legalisation into the service of other goals, in this case on the side of the centrist and leftist parties.

## **7. Preliminary conclusion**

The comparison of discourses on legalisation in France and Germany must take into account a number of formal differences. Apart from those already mentioned (different rules of parliamentary debate, different history of legalisation), it becomes clear that the debate on legalisation in France is much larger and thus contains a wider range of arguments. However, it seems possible to come to some preliminary conclusions.

Humanitarian aspects and pragmatic solutions are the most important argumentative devices to generate legitimacy for legalising illegal aliens. Legalisation is portrayed as inevitable because there is no other solution than to grant immigrants residence permits if they cannot be deported. This pattern of interpretation is especially widespread in French debates. In Germany, the construction of inevitability seems not to be quantitatively prevalent. The argument that well-integrated foreigners without residence permits will be accepted without problems is more widespread, although the number of cases is too small to answer this question definitively. This implies that German politicians admit the failure of immigration policy less often (through the acceptance of practical solutions) or do not regard the existence of people without residence permits as a failure of their policies. The existence of an administrative process for these people (toleration, *Duldung*) probably promotes this view.

The lower flexibility in relation to legalisation in Germany is also reflected by the pronounced bipolarity in the argumentative structure. The CDU seldom makes use of arguments that are predominantly employed by leftist members of parliament. The liberal-conservative FDP is an exception to this. The discursive spaces of both sides are much more closed than in the French parliament. However, this bipolarity would probably be a bit less marked if the

CDU/CSU had been in power during the entire period investigated, as was the case with the UMP in France. Humanitarian aspects were mentioned by Wolfgang Schäuble only when he had to compromise with the SPD and defend the policy of the grand coalition.

The political discussion on legalisation in France is much more a continuum of different views and interpretations than two separate discursive spaces. This fact is probably a result of the high legitimacy of humanitarian grounds and pragmatic approaches towards legalisation within the French public. One suggestion would be that policy proposals in France must always contain a humanitarian element because legalisation is (partially) regarded as the solution to a humanitarian problem and its refusal is seen as illogical in view of the non-deportability of certain groups of foreigners.

That view may result from the different administrative organising of illegality as described above (section 2). De-facto legalisation is not regarded as legalisation in Germany because the prior illegal status without residence permit is turned into “toleration” of people who are obliged to leave Germany, although their deportability has been suspended temporarily. Speaking of temporarily suspending the deportation helps to maintain the impression that the state remains master of the situation. This fact will further be shown in the qualitative analysis.

## **8. Qualitative Analysis**

### **8.1 Defining legalisation**

First of all, it must be clear what is meant by "illegal" and "legalisation". This definition is especially important in a cross-country comparison. Speakers use different words to denote illegal immigrants. While *Illegalen* and the corresponding adjective in connection with a substantive like *illegaler Einwanderer* or *illegale Einwanderung* are predominant, left-wing speakers in particular use terms that avoid qualifying people as "illegal". One of their alternatives is "illegalised person" (*Illegalisierte*, e.g. Sevim Dağdelen, *Die Linke*). As already mentioned, the distinction between tolerated people and "normal" illegal immigrants is important because it minimises possible resistance to pragmatic solutions for those people who cannot be deported but who are in the possession of tolerations. The designation of this group is inconsistent, which is a result of the special status of these people between legality and illegality. Max Stadler (FDP) separates tolerated people from illegal immigrants, as becomes evident in the following statement:



Wenn wir noch ernsthaft über das Bleiberecht von sich lange und *rechtmäßig in Deutschland aufhaltenden ausländischen Menschen* reden und streiten müssen [i.e. tolerated people, my italics], dann macht es erst recht keinen Sinn, sich noch Gedanken über den Status der Illegalen zu machen. Erstere gehen logischerweise vor. (16/016, 1191)<sup>31</sup>

On the other hand, Reinhard Grindel (CDU) describes tolerated people as "illegal", when he criticises the allegedly permissive policy of the SPD/*Grüne* government:

Ob es *Bleiberechtsregelungen für Illegale* sind, ob es die Visaaffäre ist oder Ihre [i.e. the Greens'] mangelnde Bereitschaft zu einer konsequenten Abschiebung von ausreisepflichtigen Ausländern –  
(Jörg Tauss [SPD]: Kaplan!)  
Ihnen geht es in Wahrheit um massenhafte Zuwanderung [...]. (15/179, 16930)

Since the CDU formed part of the government in October 2005, this vocabulary has been avoided, although it has been pointed out that tolerated people do not possess a residence permit, as stated by Wolfgang Schäuble (CDU):

Außerdem haben wir uns - im Übrigen mit intensiven Beratungen - dem Problem der Menschen zugewandt, die seit vielen Jahren *ohne eine gesetzliche Aufenthaltserlaubnis* [i.e. tolerated people; F.W.] in unserem Lande leben. (16/094, 9545)

Although other examples were not found, it is clear that the definition of "tolerated people" is subject to different interpretations that depend on ideological affiliation. Furthermore, the placement of tolerated people in the continuum from illegal to legal is actively influenced by the purpose of the speech: blaming the policy of the government or justifying one's own measures. The existence of the status "tolerated" helps to disaggregate this group of people from the "real" illegal aliens and to mitigate conflicts concerning alternative strategies towards illegal immigrants.

Solutions to older cases (*Altfallregelungen*) are also subject to tactical definitions. Because such actions expand the rights of immigrants, they potentially increase the inflow of immigrants who hope to profit from this rule after a certain period of time (the pull effect argument explained below). However, older case solutions are not totally rejected. Only "general old case solutions" (14/99, 9288 and 14/11, 609) are suspected of generating pull effects. This means that even conservative politicians keep open the option to grant immigrants residence permits in certain cases. This concession, however, is not acknowledged as "legalisa-

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<sup>31</sup> Here and in the following quotations my italics.

tion". Amnesties are explicitly and vehemently rejected because of their alleged pull effect. It is considered to be Italy's and Spain's own fault that they must tackle illicit immigration because their legalisation campaigns facilitated the inflow of illegal aliens (16/63, 6292; 16/76, 7631). Therefore, Reinhard Grindel (CDU/CSU) declares that it is necessary:

erstens illegale Migration nicht zu tolerieren, sondern zu bekämpfen und zweitens Illegale sofort zurückzuführen und ihren Status unter keinen Umständen innerhalb der EU zu legalisieren. Das würde nämlich den Weg nach Europa nur attraktiver machen. (16/76, 7631)

Obviously, solutions to old cases are not regarded as legalisation in this sense, otherwise the speaker's statement would be contradictory because he demands their status be legalised "under no circumstances" (*unter keinen Umständen*). Thus, older case solutions are exempted from the concept of legalisation, although they are not case-by-case solutions in the strict sense but bear elements of cut-off date solutions such as amnesties. Generally, solutions to old cases are under pressure from interpretation patterns that highlight the risks of these measures and their lack of compatibility in regards to the legal system.

In contrast to Germany, the French situation is more open and therefore conflict-prone because there is no legal instrument such as toleration to de-politicize the issue of legalisation. Therefore, much of the French discussion on legalisation concerns the same group of people as in Germany, namely those who do not have a residence permit but cannot be repatriated. They do not appear as illegal foreigners in Germany because their status is hidden behind a concept of law that does not qualify as illegal. That the special situation of this group of people should be denoted by a special term is even clear to some French politicians. Étienne Pinte (UMP) mentions that:

je tiens à appeler l'attention du Gouvernement sur les difficultés de ces centaines d'étrangers qu'on baptise les « ni, ni » - ni expulsés, ni expulsables. Ils n'ont jamais été expulsés, soit parce que l'administration s'est abstenue, soit parce que leur pays d'origine leur a refusé un laissez-passer. Ils sont donc *restés en France légalement mais, sans titre de séjour* et, sauf exception, sans droit au travail, *ils y vivent dans une semi-clandestinité*, travaillant au noir pour faire vivre leur famille. (2003-07-09-1, 478)

Therefore, he demands the creation of a status that resembles the German toleration:

La délivrance d'une autorisation provisoire de séjour serait souhaitable et éviterait de maintenir sciemment un étranger en situation irrégulière. (2003-07-09-2, 90)

In sum, the legal and political definitions of “illegal immigrants” differ from one another in Germany. This difference is mainly the result of the legal-administrative instrument of toleration, which does not exist in France, where illegality is therefore less easy to hide from the social reality than in Germany.

The French word *régularisation*, which is generally used in this context, is a euphemism for legalisation because it camouflages its real intent: making an illegal act or an illegal situation legal by creating a norm that supersedes the existing rules and therefore circumvents the official immigration policy. The notion *régularisation* suggests that this measure puts a situation in order that temporarily got out of hand. This understanding helps to show possible systematic inefficiencies in the legal order of immigration in a favourable light and certainly does not apply to the individual situation because there is no doubt that these people are residing in France unlawfully and often were never allowed to stay legally. The potential of disguising is not as large as in the case of the German toleration, however.

In political debates, the borders between illegal and legal become blurred in Germany, for example as a consequence of the special status *Duldung*, and in France because of intermingling similar terms like “irregular” and “illegal”:

Certains restent ainsi pendant des années sur le territoire français, légalement, mais sans titre de séjour, donc sans autorisation de travail. La délivrance d'une autorisation provisoire de séjour serait souhaitable et éviterait de maintenir sciemment un étranger en situation irrégulière. (Etienne Pinte, UMP, 2003-07-09-2, 87)

In this example, the French MP Pinte describes staying without a residence permit as legal (*restent ... légalement*) and at the same time as irregular (*en situation irrégulière*), while the formulation “without residence permit” would additionally suggest “illegal”. The exact legal definition of this situation is not clear and thus is open for the use of language with political intentions. Therefore, there is a comparatively large variety of terms for “illegal immigrant” in the French parliament (van der Valk 2003: 323). This lexical imprecision resembles the situation in other countries, which also prefer to speak of regularisations or normalisation (*normalización*), as was done in Spain in 2005. Indeed, official bodies avoid the concept *légalisation*.

As a result, the situation in Germany differs quite a bit from that in France. The terms legalisation or regularisation are not used in the discussion. If the corresponding administrative act really occurs, it is even not perceived as legalisation. The French semantic field of “irregular” or “without papers” (*sans papiers*) is nearer to their illegal status. The term *régularisation* also stems from a decades-old administrative practice. One can be sure that state bodies and the public are aware that it concerns legalising illegal immigrants.

## 8.2 (De-)Legitimising legalisation: patterns of interpretation

In this section, on the basis of parliamentary debates I develop an analysis of the patterns of interpretations that can be found in German and French politics regarding immigration legalisation. The patterns are based on a condensed description of what politicians say and think about legalising illegal immigrants (although they may not call it that). However, I try to distil the underlying assumptions of problematic aspects and describe the legitimating strategies that are used to justify the respective approaches towards the problem of illegal residence.

### 8.2.1 *The practical negative consequence of legalisation: the pull effect*

#### a. Germany

Generating pull effects is certainly one of the arguments most often used in debates on legalisation throughout Europe. This is also true in the German case, where many contributions to the debate focus on fears of stimulating illegal immigration. According to this pattern of interpretation, every concession made in favour of illegal immigrants increases the number of illegal immigrants because they may hope to benefit from legalisation or other relief for people without valid documents. This pattern is also transferred to the interpretation of other measures outside of legalisation because every policy that concedes a certain form of relief to illegal aliens is capable of attracting new illegal immigration according to this point of view. Therefore, speakers use this argument in many situations when more rights for foreigners are discussed.

Quantitatively, the situation is unambiguous, as described above (section 6): Speakers of the CDU/CSU produced this argument 27 times, followed by the FDP (five times) and the SPD, which mentioned the pull effect only on one occasion. The *Linke* also referred to this pattern of interpretation but denied that the effect really exists. Because of its distribution, this pattern of argumentation is used uniquely to defend a negative attitude towards easing the difficult situation of unwanted immigrants. Furthermore, this pattern is very flexible because it can be applied to a variety of different developments in immigration policy. All concessions made to illegal and other unwanted immigrants are suited for increasing the attractiveness of Germany in the eyes of illegal immigrants. Hartmut Koschyk (CDU) explained:

Erleichterungen des Familiennachzugs, Erleichterungen bei Ermessenseinbürgerungen, Ausweitung von Altfallregelungen für abgelehnte Asylbewerber, Ausweitung auf

nicht staatliche Verfolgung. All dies weckt Hoffnung und schafft weiteren Anreiz für Zuwanderung nach Deutschland. (14/102, 9528)

In this vein, detailed policies such as reducing the minimum duration of marriages before obtaining an independent right of residence (e.g. 14/93, 8567) or allegedly high individual payments for asylum seekers (14/99, 9288) could be criticised as increasing unwanted immigration. This argument is often linked to negative consequences for immigrants themselves, so that maintaining tight standards is worthwhile for both natives and foreigners. Peter Uhl (CDU) uses human trafficking to substantiate the CDU's rejection of shorter minimum durations of marriages:

Die Schleuser können dann neue Frauen hereinschleusen, um sie auch auf diese Weise zu legalisieren.  
(Irmingard Schewe-Gerigk [BÜNDNIS 90/ DIE GRÜNEN]: Keine Frau ist illegal!  
Man kann Frauen nicht legalisieren!)  
Insofern ermöglichen und begünstigen Sie kriminellen Menschenhandel, ohne es zu wollen. (14/93, 8567)

The argumentative connection between the pull effect and exploitation of the immigrants' misery by unscrupulous human traffickers is an important element in this pattern of interpretation. Speakers from the CDU/CSU link these two issues twelve times (FDP and SPD two times each), whereby they refer in a number of cases to the lax practice of visa issuing in the first years of the SPD/*Grüne* government. It is noteworthy that facilitators of illegal entry are often described as criminals and illegal immigrants as their victims (Boswell 2007b: 7). Although empirical research shows that this is a correct interpretation in certain cases, the majority of relationships between facilitators of entry and immigrants can be described as a service provider-client relationship, where the quality of the service depends on the amount of money the immigrant is able and willing to pay (Oberloher 2005: 52-53). By describing human trafficking as dangerous for immigrants, a legitimating argument for preventing (future) unwanted immigrants from committing a mistake is constructed.

#### b. France

The alleged existence of a pull effect is also an important topic in the French discourse on legalisation. Representatives of the UMP use this argument to warn of legalisation in the same way as their counterpart the CDU/CSU in Germany. French conservatives are nevertheless more open towards legalisation than German Christian-Democrats and acknowledge the need for awarding illegal aliens residence permits under certain circumstances and on a case-

by-case basis (see section 7.2.5 b). They understand that under certain circumstances, it is the only solution for people whose administrative history has proven that they cannot be repatriated or legalised, which becomes obvious in the quantitative analysis. However, they are the only political group that fears pull effects. As Christian Estrosi (UMP) puts it:

[P]our nous, la régularisation automatique au bout de dix ans de présence illégale représente un appel à la clandestinité et il n'est pas bon de continuer à envoyer un tel message. (2006-05-05-2, 252)

Only members of the UMP group in the parliament use the pull effect and the other parties never make use of this argument. Jean-Christophe Lagarde of the *Nouveau Centre* even admits that he changed his mind on the question of whether legalisation attracts illegal immigrants and does not regard this outcome as an imminent problem because of the small number of people concerned. The issuing of visas generates larger problems, according to him (2006-05-05-2, 183).

In contrast to the German discussion, political opponents do take up the argument of *l'appel d'air* and dare to contradict the existence of this effect. Speakers of the *Nouveau Centre*, the PS, and the extreme left groups (communists and greens) openly doubt whether immigrants enter France with the intention to hold out for ten (or fifteen years) in order to get a residence permit. According to these politicians, the pull effect is a fallacy (see Julien Dray, PS, 2006-05-05-2, 91; Jean-Christophe Lagarde, NC, 2006-05-05-2, 385). Apart from that, the content itself of this pattern of interpretation does not differ from Germany.

### 8.2.2 *The normative negative consequence of legalisation: rewarding an illegal act*

#### a. Germany

The original version of the pattern argued that giving the right of residence to people without residence permission is a reward for an illegal act, which is often defined twofold: illegal entry and misuse of the asylum system. Illegal residence is not mentioned in this context, which again shows that illegal immigration is perceived in Germany above all through debates on illegal entry and asylum and is only in the second place regarded as illegal residence. Furthermore, asylum replaces illegal immigration in many respects, as already indicated in the policy description (see section 2.2). Although tolerated people are not only former applicants for asylum but generally people who cannot be deported because of humanitarian reasons or because they have no papers, speakers associate solutions to old cases with misuse

of asylum rights. Erwin Marschewski, president of the “working group displaced people<sup>32</sup> and refugees” of the CDU/CSU parliamentary group, alleges that “general old case solutions increase abuse of asylum and trigger illegal immigration” (14/99, 9288). Here, both abuse of asylum and illegal immigration are mentioned in the same sentence. This statement is also another indication of the hypothesis that asylum immigration has the same position in the German political process as illegal immigration in France. It is a remnant of the early 1990s, which saw a peak for applications for asylum, such that illegal immigration was asylum immigration to a large extent. The mixture of illegal entry and misuse of asylum in the discourse on legalisation reflects this policy legacy. Illegal stay, in contrast, is not often discussed and seems to be missing in many descriptions of immigration. The statement also shows that certain legislative measures are not regarded as rewarding illegal behaviour immediately but as inciting it indirectly because the (potential) illegal immigrants recognise that criminal acts pay off.

As shown in table 2, this pattern of interpretation stems exclusively from the CDU/CSU group in the *Bundestag*. It is almost always mentioned in connection with the solutions to old cases that the SPD/*Grüne* government tried to establish and the subsequent grand coalition finally introduced and implemented. The difficulty of the Minister of the Interior Wolfgang Schäuble (CDU) consisted of legitimising a draft law whose content was opposed by the Union parties before the change of government in 2005. Christian-Democratic politicians still maintain this disagreement with legalising foreigners because of the inherent rewarding character. When it is necessary to consent to a solution for certain groups of foreigners, they cannot just negate their aversion towards legalisation and older case solutions as a basic principle. Instead they soften their position by adding a qualifying attribute: Old case solutions shouldn't *generally* lead to a reward of illegal entry and misuse of the right to asylum (Wolfgang Schäuble, CDU, 16/94, 9545 and 9546; Stephan Meyer, CDU, 16/25, 2022).

Another variant of this argument concerns human trafficking. Conservative speakers accuse the leftist parties of being accomplices to human traffickers because their tolerant rules (e.g. old case solutions) make smuggling foreigners worthwhile (Hans-Peter Uhl, CDU, 14, 93, 8567; Reinhard Grindel, 16/16, 1190). Human trafficking is rewarded according to this argument. Such grave allegations cannot be found in parliamentary debates on legalisation in France. This is not only an indication of different cultures of discussion but also shows the confrontational character of the two sides of the debate (humanitarian and control oriented) in

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<sup>32</sup> Displaced people (*Vertriebene*) are in the German context ethnic Germans who settled east of the Oder and Lausitzer Neiße.

German politics. Instead, proponents of legalisation argue that people without legal residence permits must be regularised. Otherwise, these people would be exposed illegal networks of human traffickers (Nicolas Perruchot, NC, 2007-09-18-1, 378; Patrick Braouezec, PCF<sup>33</sup>, 2006-05-05-2, 167).

b. France

The term *prime à l'illégalité* is used to denote the same interpretation that was constructed by members of the *Bundestag* when they warned of "rewarding illegal immigration". It is also used by members of the conservative group in France, but only by them. The aforementioned endeavours to maintain a coherent law (for the content of this term see 7.2.3) is justified in this way (Thierry Mariani, UMP):

En matière de lutte contre l'immigration clandestine, nous devons affirmer avec force notre volonté de faire appliquer les règles d'entrée et de séjour des étrangers. Il fallait donc mettre fin à la « prime à l'illégalité » que constituait l'octroi d'un droit au séjour à toute personne ayant réussi à se maintenir irrégulièrement sur le territoire pendant plus de dix ans.

[...]

Ce système est injustifiable. S'il faut laisser aux préfets la possibilité – que maintient le projet – de régulariser dans un but humanitaire, il est inconcevable de récompenser une violation des lois de la République. (2006-05-05-2, 195-197)

Conservative speakers reject this provision based on concerns about the coherence of the law. They also connect this concern with fears that this provision will attract illegal immigration. However, there are no objections to legalisation in general, but only to the (alleged) automaticity of the rule, which will lead to regular legalisation after ten years, although this regularity is advocated by speakers of other political parties. The regularity is an object of interpretation between the two opposing sides. Others interpret the ten-year rule as a case-by-case solution, which does not lead to issuing visas automatically but only opens a new possibility to review the specific cases (e.g. Jean-Christophe Lagarde 2006-05-05-2, 386). Yves Jégo (UMP), however, supposes an automatic process which will send the wrong signals:

Mais avec la régularisation automatique, quel message donnerions-nous ? Que si l'on n'applique pas ses lois pendant dix ans, la République vous donne une deuxième chance. De plus, pendant ces dix ans, il y a des possibilités pour essayer de faire réexaminer sa situation.

[...]

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<sup>33</sup> Patrick Braouezec is not member of the *Parti socialist* but of the *Groupe socialiste, radical, citoyen et divers gauche*.



[...] Le cas par cas est la seule solution. L'automatisme laisse croire qu'il suffirait de frauder pendant dix ans [...] (2006-05-05-2, 177-179).

The debate on this pattern of interpretation is very lively and those who deny the existence of a reward also give examples of people who applied for a residence permit after the ten-year period expired. They present the life of illegal immigrants in France as very troublesome, such that no immigrant would take it upon himself to stay in France with the sole aim of residence permit eligibility after ten years. Julien Dray (PS) even sees positive aspects when people without residence permits succeed in residing ten years in France (see also the debates on the “pull effect”):

Être clandestin pendant six mois ou un an, c'est une chose, mais dix ans sans discontinuer ! [...] Mais un séjour de plus de dix ans sur notre territoire a un sens : il ne s'agit donc pas d'une simple prime à l'illégalité ! [...] Au contraire, ces gens nouent des liens familiaux, affectifs, professionnels avec notre pays. Bien souvent, ils travaillent en toute légalité ! (2006-05-05-2, 374)

The existence of illegal aliens who manage to live for a long time in France is interpreted as a positive element where the negative aspects take a back seat. Proponents of permanent legalisation claim that it would be a reward if illegal immigrants plan from the beginning to benefit from the ten-year rule, which cannot be found in reality, however. They point out the disproportion between the reward (residence permit after ten years) and the advance performance applicants have to fulfil. The incentive is not large enough to justify the troubles that illegal immigrants must survive during the qualifying period. Because of this mismatch between effort and reward, there is usually no such intention; the strategic use of the aliens law does not exist and cannot be rewarded by too generously issuing residence permits (see above “pull-effect”). In contrast, they are regularised on account of humanitarian reasons. In sum, French politicians openly question whether certain rules concerning illegal immigrants are a reward, i.e. they become involved in an argumentative discussion on a sensible topic, a debate that German politicians seem to avoid.

Some proponents of the ten-year rule interpret legalisation again in a very different way, namely as prescription. According to this view, illegal acts committed by people without residence permits (namely illegal entry and illegal stay) become time-barred after a certain period of time (ten years in this case), as they do in other legal matters:

Elle ne constitue pas une prime à l'illégalité, mais une forme de prescription pour le seul délit commis, à savoir l'entrée ou le maintien illégaux sur le territoire. (Jean-Christophe Lagarde, NC, 2006-05-05-2, 386)

This statement concerns the ten-year rule introduced by the law of 11 May 1998. Speakers of all parties refer to it using the denotation *prescription* (e.g. Claude Goasguen, UMP, 2003-07-03-2, 430 or Bernard Roman, PS, 2006-05-05-2, 377). Defining legalisation as resulting from the statute of limitation helps to counter the argument that residence permits for illegal aliens reward illegal behaviour. The concept of limitation is generally accepted in all legal orders and it therefore helps to create legitimacy if it is transferred from areas of common usage to areas where its usage is new:

Il n'est pas vrai, comme il est écrit dans l'exposé des motifs, que cette disposition revienne à récompenser une violation prolongée des lois de la République...

M. Jérôme Rivière - C'est pourtant bien le cas.

M. Jean-Christophe Lagarde - La prescription prévue existe dans notre droit (Exclamations de M. Rivière). (Jean-Christophe Lagarde, Nouveau Centre, 2006-5-5-1, 227-229)

Politicians in favour of permanent regularisation rules can even hint at concrete legal areas where *de jure* and not only *de facto* limitations of time are common legal instruments, e.g. fiscal fraud (Christophe Caresche, PS, 2006-05-02-3, 241). In this vein, immigration without permission is still an illegal act but semantically brought more into line with other illicit behaviour. It can be politically tackled like other forms of fraud, although the permanent legalisation rule is not a prescription in the legal sense. These last points lead directly to the next pattern of interpretation.

### 8.2.3 *Practical and normative consequences for the legal system: endangered coherence of the law*

#### a. Germany

One of the most interesting patterns of interpretation concerns the coherence of the law. According to this interpretation, the functioning of the legal system must be guaranteed and contradicting principles must be avoided. This is exactly the argument that is produced by the CDU and FDP to hinder the expansion of solutions to old cases for tolerated people (for the FDP see Hartfrid Wolff, 16/166, 17678). When the CDU formed part of the government, this interpretation of the old case solutions was not abandoned but was still present, as Minister of the Interior Schäuble concedes. He openly describes old case solutions as a conflict of

two principles (16/94, 9545), namely the rule that illicit behaviour shouldn't lead to the right of residence and the necessity to rectify situations that cannot be solved in any other way.

Other variations of this argument concern the concept of justice in connection to legal immigrants. According to these statements, it would be unjust to reward illegal immigrants for violating immigration rules while other foreigners worked hard to fulfil all preconditions (e.g. Helmut Brandt, CDU, 16/91, 9206).

It is noticeable but natural that most comments that are directed towards this pattern of interpretation stem from politicians from the CDU/CSU and FDP. There are no such statements from the *Linke* or the *Grüne*. A representative of the SPD even points out the contradiction: conferring certain rights regarding access to public services to illegal immigrants and at the same time insisting on the compliance with the law dissolves the coherence of the legal system (Rüdiger Veit, SPD, 16/16, 1192).

The FDP, however, alludes several times to the rule of law as an abstract principle, which does not need further justification. The speakers of the CDU/CSU, however, tend to invoke the coherence of the law as a normative concept that should guide the behaviour of people who would otherwise break the law or present it as a principle whose defence is the duty of the state, who would otherwise fail to protect its citizens. It is thus a functional interpretation of the coherence of law that contrasts the view of the FDP, which looks upon it as an absolute criterion. Speakers from the FDP do not mention it in relation to a certain purpose or consequence but it is an end in itself that has to be upheld by state authorities. This is in line with the self-assessment of the FDP as a party of civil rights:

Wenn man über die Situation von illegalen Ausländern in Deutschland spricht, dann ist dies von vornherein heikel. Denn bei einem solchen Thema kann es leicht zu Missverständnissen kommen. Deswegen möchte ich bewusst mit der eigentlich völlig selbstverständlichen Aussage beginnen, dass illegale Migration in einem Rechtsstaat nicht akzeptiert werden kann und dass der Staat das Recht und die Pflicht hat, sich dagegen zur Wehr zu setzen.

(Beifall bei der FDP und der CDU/CSU sowie bei Abgeordneten der SPD und des BÜNDNISSES 90/DIE GRÜNEN)

Ich übernehme daher auch nicht ganz die Formulierung des Kollegen Winkler [Die Grünen; F.W.], man müsse die Realität der Situation von Illegalen in Deutschland anerkennen. Ich bevorzuge vielmehr die Formulierung: Wir müssen uns dieser Realität stellen. (Max Stadler, FDP, 16/16, 1190)

This excerpt is also an example how the wording of statements is consciously used to give an interpretation an intended spin. The preceding statement refers to the preference of "facing the reality" (*dieser Realität stellen*) instead of "accepting the reality" (*die Realität [...] anerken-*

nen). It reveals that conservative politicians are not willing to admit that some aspects of immigration cannot be controlled and that flexible solutions are necessary. Speakers of the CDU/CSU (most importantly Minister of the Interior Schäuble) therefore do not give up their belief that granting tolerated people residence rights is, in principle, in contradiction with the law on immigration, although they finally supported some measures as governing party (see above). Speakers of the SPD, the *Grüne*, and the *Linke* usually do not use this interpretation pattern and instead refer to a trade-off between control aspects in the application of the law and humanitarian needs. That trade-off means that the basic principle that rules must be complied with is acknowledged, but the proponents of this counterpattern of interpretation do not see a contradiction between implementing the law and making concessions to illegal immigrants and other foreigners in unstable situations. Instead of interpretation, they picture it as a necessity according to the conventional wisdom *summa ius, summa iniuria*. This model is also partially embraced by Wolfgang Schäuble. Conceding that there must be solutions beside or outside of the law currently in effect does not mean circumventing the existing law, but establishing new legal rules (for illegal and other immigrants) that simply replace the previous ones. Speaking of humanitarian rights, which even illegal or tolerated foreigners are entitled to, dispels (unsaid) doubts as to whether the rule of law is softened. Rights are in opposition with other rights, although it is a wide interpretation of legal techniques to derive such far-reaching rights for illegal aliens from the German constitution or international treaties. In this way, the duty of the state to fight illegal immigration is not neglected. Rather, the obligation to execute the legal order is countered by the equally legitimate obligation to account for humanitarian standards:

Wenn wir Menschen zwingen müssen, unser Land gegen ihren Willen zu verlassen, dann ist das fast immer mit menschlichen Tragödien verbunden. Das gilt umso mehr, wenn sie sich schon viele Jahre in Deutschland aufgehalten haben. Das wühlt viele von uns, die das sehen, vor allen Dingen dann auf, wenn es dabei um Familien mit Kindern geht, die in Deutschland aufgewachsen oder sogar hier geboren sind. [...] Andererseits kann der Staat auf die notfalls zwangsweise Durchsetzung der Ausreiseverpflichtung nicht verzichten. Denn würde sich [...] bei den zig Millionen bereits auf der Flucht befindlichen Menschen herumsprechen, dass, wer immer deutschen Boden erreicht, auch hier bleiben kann, würden wir einen [...] Zustrom erzeugen, den wir niemals bewältigen könnten. Dies ist nun einmal das [...] auch unter humanitären Gesichtspunkten oftmals nur schwer zu bewältigende Spannungsfeld, in dem wir uns [...] bewegen. (Rüdiger Veit, SPD, 16/91, 9208; similar Josef Philip Winkler, Grüne, 16/16, 1187; Wolfgang Schäuble, CDU, 16/103, 10595).

In any case, humanitarian need is the most common term used to describe the set of values that must be observed in executing immigration policies. This term is a useful choice considering the strategic aspects because it ties in with a widely accepted idea that people of all ideological backgrounds feel bound together, in contrast to other phrases such as solidarity or Christian charity. It has a similar function to the *valeurs de la République* in France, which are also deeply seated in the society (Hagedorn 2001).

#### b. France

There are similarities to the discourses in both countries concerning the interpretation pattern of the coherence of the law, but there are also notable differences. The “German” interpretation of coherence can be found in the *Assemblée nationale* in the statements by the government and its representatives. According to this view, legalisation is regarded as contrary to the existing law and as hindering efficient law enforcement. The intention of unifying the regularisation practice in prefects belongs to this argumentation as well. The members of parliament point to the variance in the use of discretion that leads to different results concerning legalisation applications in France. To this end, a commission was founded under the aegis of the ministry of the interior, which revises all files with unclear legal situations to prevent these people from becoming *ni-ni*. Jean-Christophe Lagarde (NC) sums up the positive consequences of this commission, in contrast to the previous situation, as follows:

[L]e caractère inextricable de certaines situations nous incitait à ne pas respecter la loi que nous avons nous-même votée. Tel ne sera plus le cas, et je m’en réjouis d’autant plus que le ministre d’État a confirmé que les situations pouvant être soumises à la commission seraient appréhendées de la manière la plus ouverte possible. (2006-05-10-2, 251)

It is not clear why Lagarde presumes here that the law was respected after the commission began its examinations of cases. The basic problem of tight rules that cannot be applied in reality still exists. Only the consequences, illegal stay, may be reduced because more people are later awarded a residence permit. It is not the legal rules that become more coherent but the discretion of the prefects. In this vein, the coherence of the law is guaranteed, although the way to achieve it is by no means the result of efficient rules. Thus, circumventing certain provisions of the law through decisions from a commission established by law is reinterpreted as reconstituting the legal procedure, in contrast to the former regulation. Coherence of the law is maintained if illegality is reduced by any means (and not only through concise rules like in

Germany). The topic of regulation is adapted to the regulation and not the regulation to the reality.

The specific French understanding of coherence of the law is also evident in the intention of most political groups to avoid the creation of *ni-ni*. Reducing their number or even avoiding their existence contributes to sustaining a coherent system of immigration rules. The following excerpt exemplifies this interpretation. Julien Dray (PS) criticises the limitation of the right to family reunification because it will lead immigrants to circumvent the existing rules:

[A]u lieu d'une immigration choisie<sup>[34]</sup>, on aura une utilisation des visas de tourisme pour faire venir femme et enfants qu'il faudra régulariser après quelques années de présence. Chaque nouvelle barrière que vous [the presidential majority] érigez est contournée. [2006-05-09-3, 323]

In consequence, the speaker proposes to go without tighter rules because he foresees that they won't be observed. In consequence, the legislative power capitulates in the face of the practical difficulties or, positively formulated, the legislature opts for the more efficient solution which, in this case, means rejecting the normatively extreme position in favour of a more realistic stance.

The differences between the national discussions on legalisation became evident in this pattern of argumentation. The result is one of the most important and leads to a deeper level of understanding of national differences in the debates. Whereas the conservative speakers in Germany are concerned by any watering down of the laws on aliens and losing the coherence of the legal system, legalisation is perceived in France as an instrument to regain the coherence of the law by abolishing disruptive cases that indicate legal inefficiencies. German speakers must admit that there are inefficiencies as well, however, they are much more restrictive in allowing exceptional solutions and even regard tighter rules and controls as the answer to these flaws.

#### 8.2.4 *The practical negative consequences for the society: social conflicts*

##### a. Germany

Social conflicts can have two origins: they can stem from the (illegal or legalised) immigrants and the receiving society. Some speakers are inclined to assume that the support by the German population for the present immigration policy would diminish if legalisation, with

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<sup>34</sup> Sarkozy used this concept to highlight the aims of his immigration policy in contrast to "*immigration subie*".

all its negative consequences, was introduced. These people will most likely become prey to rightist/populist movements. Hartfrid Wolff (FDP) states:

[D]ie rechtskräftige Ablehnung einer Aufenthaltserlaubnis [muss] auch zu entsprechenden Konsequenzen führen. Wachsende Demokratieskepsis, Wahlverweigerung oder das Ausweichen auf Randparteien sollten für uns alle hier im Haus ein ernstes Warnzeichen sein. Wir brauchen eindeutige Regelungen: Nur Klarheit schafft Vertrauen und Perspektiven. (16/51, 5036)

In addition to Wolff's statements, illegal status keeps illegal immigrants from integrating into society because of ethnic segregation and the lack of work permissions. Speakers in the *Bundestag* who make use of this pattern of interpretation come to other conclusions than do most speakers in the *Assemblée nationale*. They do not demand that residence permits be allowed but that the rule of the law is even more strictly implemented (Hartfid Wolff, FDP, 16/51, 5036). Most politicians seem to assume that the problems entailed in illegal immigration can be solved by even more law and order. In this view, the state has enough power to control immigration.

This pattern of interpretation is therefore totally negative, i.e. directed against legalisation, apart from one statement from Sevim Dagdelen of the *Linke*, who doubts that the German population is politically unprepared for legalisation and hints at the groups and individuals who support illegal immigrants. This distribution is different in France, where legalisation is also interpreted as contributing to social peace.

#### b. France

Whereas social conflicts are alluded to relatively infrequently by the conservative group, the opposition sees tight rules against illegal immigrants and the rejection of their legalisation as a possible origin of conflicts:

Face à un texte qui renforce la xénophobie, ternit l'image de la France et inquiète ceux qui vivent paisiblement dans notre pays et qui ont construit sa prospérité, les associations, les Eglises et les citoyens sont unanimes dans leur refus. (Serge Blisko 2006-05-17-1, 64)

The allusion to the rejection of the UMP's hard stance towards illegal immigrants is often raised by leftist members of the *Assemblée nationale*. Patrick Braouezec, for example, recommends that the Minister of the Interior listen to "le cri que pousse le pays: élus, populations, églises, associations" and also insists that the general public is in favour of legalisation,

according to opinion polls (2006-05-05-2, 231). Even Schäuble's argument that indecision regarding illegal immigration increases the danger of xenophobic attitudes in the population is proven wrong by Serge Blisko. The two statements are not directly comparable because they are uttered by representatives of two different ideological affiliations; nonetheless, one can conclude that legalisation and a flexible stance towards illegal immigration are undisputedly or even predominantly seen as a cause of social conflicts. In the French debate, tight rules can be rejected because they undermine the cohesion of the society.

The specific French view on social conflicts exhibits parallels to the paradigm of "coherence of the law": Excessively tight rules are seen as partially damaging their original purpose. They delegitimize governmental policies on illegal immigration because potential conflicts with the public and relevant political actors in this policy field arise, and discrepancies between the facts and the normative ideal are revealed.

#### *8.2.5 The pragmatic positive attitude towards legalisation: inevitable solutions for muddled situations and for promoting integration*

##### a. Germany

This pattern comprises a number of arguments, the two most important being that it makes no sense to demand the deportation of people who are well integrated only because they do not fulfil certain legal preconditions, and that legalisation rectifies situations that cannot be solved through other means due to difficult legal or practical constellations.

Therefore, solutions to old cases are semantically linked to attributes that imply the meaning of duration. If the group of people who will be entitled to such extraordinary residence permits is mentioned, the supplement "who have lived in Germany for many years" or similar phrases are often added. Speakers of all parties use these expressions. Their intention is to make it clear that only a very limited group of people will be awarded a residence permit and that it is a solution for very extraordinary situations. This emphasis is also expressed semantically as the following passages exemplify:

Wir sind in der Frage der Altfall- bzw. Bleiberechtsregelung für sich seit langen Jahren in der Bundesrepublik aufhaltende Ausländerinnen und Ausländer längst in einer entscheidenden Phase. (Rüdiger Veit, SPD, 16/51, 5034)

and

Außerdem haben wir uns - im Übrigen mit intensiven Beratungen - dem Problem der Menschen zugewandt, die seit vielen Jahren ohne eine gesetzliche Aufenthaltserlaubnis in unserem Lande leben. (Wolfgang Schäuble, CDU, 16/94, 9545)



The two attributes given to tolerated people "who have lived for long years" in Germany or "for many years", respectively, emphasise the peculiar circumstances of their cases and are stronger than the mere statement that they have lived for a long time in Germany. Those speakers who hint at the good integration of these people who are tolerated are members of the FDP and the left groups in the *Bundestag* (see Rüdiger Veit above, section 7.2.3).

Proponents of the solutions to old cases are inclined to claim an argumentative closure to the discourse. Their interpretation of a given fact is purported to be the only possible solution. As a result, the speaker can claim legitimacy because his or her proposal is the only feasible one:

Wir haben es da mit zwei sich ein Stück weit widersprechenden Prinzipien zu tun. Auf der einen Seite müssen wir darauf bestehen, dass die nicht erlaubte Einreise in unser Land oder auch die Erlaubnis zu vorübergehendem Aufenthalt in unserem Land nicht gewissermaßen automatisch zu einem Daueraufenthaltsrecht führt. [...] Manche Flüchtlinge sind auch unter anderen Umständen gekommen. Dann sind sie jahrelang hier; Kinder werden geboren und wachsen hier auf. Aus diesen und jenen Gründen sind die Länder nicht in der Lage, die Flüchtlinge, obwohl sie keine gesetzliche Berechtigung für ihren Aufenthalt haben, außer Landes zu bringen. Irgendwann kommt der Punkt, wo man eine Lösung finden muss. Das sind die zwei Prinzipien. (Wolfgang Schäuble, CDU, 16/94, 9545)

Here, the Minister of the Interior openly admits that pragmatic solutions are against the principles of immigration policy in Germany. If one seeks a solution for the problem of non-deportable foreigners, there is nothing left but to accord them a form of residence permit.

#### b. France

One of the most important findings has already been mentioned: Even conservative politicians approach the problem of illegal immigration in a pragmatic way and see legalisation as a remedy. Some statements even point out that the conservative government wants to beat the leftist parties in making concessions towards illegal immigrants. At least they legitimise their proposal to abolish the ten-year rule by claiming that the draft rule will expand opportunities for legalisation:

Il faut passer dix ans en situation irrégulière, et vous aurez automatiquement des papiers. Mais ils ne parlent pas de ceux qui ne sont pas là depuis dix ans mais mériteraient la régularisation. Le ministre d'État leur a ouvert une porte. (Yves Jégo, UMP, 2006-05-05-3, 165)<sup>35</sup>

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<sup>35</sup> This is not a rhetorical lapse of a single person because Christian Estrosi, ministre délégué (UMP) phrases it very similarly (2006-05-05-3, 207).

The formulation that the minister has opened a door (*a ouvert une porte*) is especially noteworthy because such metaphors are generally used to describe the danger of migration (see Charteris-Black 2006). Similarly, representatives seek to outclass the opposition in legalisation friendliness by describing illegal immigrants as a chance for France. The presidential majority adopted an amendment that allows workers with skills that are scarce in France to be awarded residence permits (see section 2.1). Conservative politicians celebrate their flexibility and support of illegal immigrants in this context. The government certainly does not intend to outperform the opposition in openness towards immigration, so this statement serves a certain rhetorical purpose. In particular, it shows that smooth solutions to the problem of foreigners without residence permits are highly legitimated, so even those who reject legalisation in general refer to this instrument to generate acceptance. They do not use it to merely take the wind out of the critics' sails and to promote their own policy, but they are also obliged to respond to the immense discourse that makes illegal stays a problem without providing any solutions other than legalisation. This situation is analogous to the constellations in German discourse on ecology in which the conservative discourse had to adopt rhetorical elements from the critical discourse to generate legitimacy on account of the latter's prominence in the media (Keller 1998: 204). So the UMP does not totally reject legalising foreigners but is in favour of case-by-case examinations:

[I]l faut trouver une solution pour ceux qui sont sur notre territoire et sont intégrés : la régularisation au cas par cas est donc indispensable. (Yves Jégo, UMP, 2006-05-05-2, 176)

Legalisation (called regularisation) is thus regarded as something normal; there are no doubts that a certain level of legalisation is necessary. This is legitimised by the small chances of deporting certain groups of people or by their good (social, economic, or familial) integration.

A subcategory of the pragmatic family of arguments is also sometimes found in the French discourse: Legalisation is regarded as harmless because it is only aimed at a small number of people. Legalisation is interpreted by members of all parties in this way, including the UMP. This is an arch-pragmatic argument because it demands legalisation without further reason. It is often used to counter allegations that awarding residence permits triggers more illegal immigration. Leftist, centrist, and even rightist politicians point out that it is inadequate to discuss negative effects of legalisation given the small relevance of this problem.

However, this pattern of interpretation can be found only in conjunction with other arguments because it does not seem to be strong enough to legitimise the ten-year legalisation rule. In Germany, there is no such discussion. This interpretation can probably be explained by the relevant problem structure. An "automatic" revision of single cases may bear a comparable number of people per annum who want to regularise their status. The absence of such a permanent legalisation provision necessitates cut-off-date solutions, which naturally involve a much larger number of people (over 100,000 in Germany), so allusions to a small number of potential applicants for such a measure are not possible.

An important part of the discourse on legalisation in France is shaped by a subcategory of the pragmatic argumentative family that does not exist in Germany, namely "production of illegality". This pattern of argumentation is used by representatives of all political parties and is used to justify certain concessions to foreigners with unstable status. The formulations resemble each other: "éviter la création d'une catégorie d'étrangers inexpulsables ni régularisables" (Thierry Mariani (UMP), 2003-07-08-3, 68) or "éviter la création d'une catégorie d'étrangers qui ne seraient ni expulsables, ni régularisables" (André Gerin, PCF, 2003-07-08-3, 68; or alternatively "la fabrique à sans-papiers"; *ibid.*, 2003-07-08-3, 43; see also Patrick Braouezec, 2003-07-08-1, 71 and 74). Here, the government is also willing to accept three amendments of the extreme left, which would be very unlikely in Germany.

Members of left-wing parties also contend that the *loi Pasqua* and the *loi Chevènement* "produced *sans-papiers*" (Patrick Braouezec, 2003-07-08-3, 145), which is a standard concept in relation to these laws. By interpreting the policy of the government as producing illegality, they reverse the intended effects of legislation, which should curb illegal immigration:

Tous les ministres de l'intérieur successifs depuis quinze ans ont prétendu lutter contre l'immigration clandestine ; mais leur politique de restriction du droit d'asile et de limitation du droit de vivre en famille a eu pour seul effet de multiplier le nombre de sans-papiers, fabriqués bien souvent par la loi. (Patrick Braouezec, PCF, 2003-07-03-3, 48)

In debates in the *Assemblée nationale*, such arguments usually aim to show that ways to legal immigration are blocked by narrow legal rules and aliens sidestep this legal regime and use illegal paths to enter France. The argument can also be used more literally because a limited number of people really lost their residence permission when the *loi Pasqua* were introduced in 1993 (Hollifield 2000: 125). This is the reason why Bruno le Rouge (PS) can assert that "[e]n compliquant le regroupement familial, vous [the presidential majority; F.W.] pénalisez

les étrangers installés en France et allez transformer des situations régulières en situations irrégulières" (2003-07-03-2, 449; similar Patrick Braouezec, PC, 2006-05-09-3, 81).

All measures that should reduce illegality are not only ineffective but even produce the exact opposite effect according to this interpretation. Even the then Minister of the Interior Nicolas Sarkozy alluded very pragmatically to the fact that the double punishment<sup>36</sup> nurtures illegality because the punished people return to their families in France after they have been deported (2003-07-03-2, 76). Therefore, the obligation to leave the country must be abolished for individuals with strong links to France.

In France, illegal immigrants are often people who live in the country without papers after their request for regularisation or asylum is rejected (see section 2.1: legalisation for former asylum applicants). Illegality is the result of narrow rules that impede aliens' legal residence. Unlike the UMP, which made concessions to the *Gauche démocrate et républicaine* in the legislative process, the speakers of the extreme left assert that all policies that aim to limit illegality produce a contrary effect. Furthermore, it is important to note that illegality emerges from within. People who vainly applied for asylum or are not allowed to live with their family in France become illegal because of the tight rules. Illegality is not perceived as the result of illegal entry into France but as the legal non-integration of foreigners residing in France. This contrasts with the German interpretation, in which illegality is generally seen as the result of illegal or fraudulent entry into the country, as in the "pull effect" pattern of interpretation, which means that the dynamic aspect of illegal immigration is predominant in Germany while the static aspects of illegal residence dominate in France.

In Germany, there seems to be no active creation of illegality in the view of most politicians. Only Dağdelen (*Die Linke*) uses the expression "illegalised people" (*Illegalisierte*, 16/016, 797), but except for this instance, the idea that laws make hitherto respectable aliens illegal is not common among the speakers in the *Bundestag*. People become illegal either by entering Germany without permission or by staying in Germany even though they are obliged to leave the country. Usually even the strongest supporters of illegal immigrants, e.g. the *Linke*, do not highlight the argument that illegal aliens are "created". In contrast to Germany, this interpretation is widespread in the French debates on illegal immigration. Correspondingly, French politicians tend to perceive illegal immigration partially as a problem from within the society, while in Germany it is predominantly an imported problem from outside the country. Illegal aliens are people who illegally pass the border to reach Germany (see section 7.2.2 a).

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<sup>36</sup> Prosecuting the perpetrator and deporting him/her after the punishment ended.

## 8.2.6 The normative (and practical) positive stance towards legalisation: humanitarian and legal considerations

### a. Germany

Besides pragmatic arguments, humanitarian considerations form the second pattern of interpretation that can be used to legitimise legalisation. The arguments differ from each other in that the humanitarian-based pattern is normative. All statements are summarised under this category if they contain a reference to the difficult circumstances illegal immigrants live under. This is a very broad category, but there are also many statements that explicitly mention either "humanitarian" reasons or "human dignity" (seven statements out of fifteen). Other statements refer to chain tolerations, which should be avoided in the interest of the concerned people (Rüdiger Veit, SPD, 16/25, 2022; Max Stadler, FDP, 16/25, 2023). Children are also mentioned several times:

Minderjährige werden durch das Leben mit einer Duldung besonders stark in ihrer Entwicklung beschränkt, insbesondere durch die Verwehrung des Zugangs zu Ausbildungsplätzen, zu einem Studienplatz oder durch die Angst vor der Abschiebung. (Josef Philipp Winkler, The Greens, 16/25, 2024)

Speakers in the *Bundestag* do not mention human rights, unlike members of the French parliament. The reason for this may partially be that "residence because of humanitarian reasons" is a legal term included in art. 25 *Aufenthaltsgesetz* and (human) dignity (*[Menschen-]Würde*) is guaranteed by art. 1 *Grundgesetz*. Humanitarian considerations or references to human dignity are recognized in the German legal system because both concepts are well-accepted standards in legal discussions and are also fixed in aliens law. "Basic rights" (*Grundrechte*) is the term used for this concept in German law:

Illegal darf nicht gleichbedeutend mit rechtlos sein. Auch für illegal Eingereiste gelten Grundrechte. (Christel Riemann-Hanewinkel, SPD, 14/173, 16988)

Human rights, however, is a term that is less common in legal policy. General statements describing illegal immigrants' distress do not describe this source of legitimacy and must therefore appeal to the audience's tolerance and warm-heartedness:

Es fällt auf, dass er [the draft law, F. W.] eine halbherzige Umsetzung der EU-Richtlinien ist und dass er eine hartherzige Altfallregelung enthält.

(Dr. Dieter Wiefelspütz [SPD]: Hartherzig? Sehr weitgehend!) (Volker Beck, The Greens, 16, 94, 9562; similarly Heike Hänsel, 16/94, 9615)

All five text passages in which members of the SPD use this pattern of interpretation concern old case solutions because the SPD does not demand legalising "real" illegal immigrants who have not been issued a toleration. Only the *Grüne* and the *Linke* approve of legalisation outside the toleration stipulation because of humanitarian reasons (one and two, respectively, out of four statements each).

#### b. France

A common justification for legalisation in France is a reference to the humanitarian situations of illegal aliens. Generally, humanitarian arguments in relation to illegal immigration abound in both countries, because the phenomenon can only be regarded in terms of the humanitarian difficulties or the control aspect (Cyrus 2004: 38-40). One difference between the two countries is the normative basis that speakers refer to. In Germany, humanitarian values are the general motivation to stress the hardship that illegal immigrants face. This is also true in for France, but republican values as a special form of humanitarian values are also very important when speakers invoke social norms. Republican values are a manifest form of the general human rights that are connected to a certain state (the French Republic) and a certain time (from the French Revolution until today). It fulfils the same function as the arguments of human dignity and humanitarian reasons in the German context and is equally suitable for generating legitimacy by referring to commonly accepted social norms. It is sometimes sufficient to mention "our values" to produce the association of current immigration policy with the normative basis of the French republic (e.g. François Baroin, UMP, 2006-05-02-2, 143). The values of the *République* are also linked to French history:

Renoncez à ce projet [de la loi sur l'immigration, F.W.], le plus destructeur du pacte républicain depuis la Libération ! (Rires sur les bancs du groupe UMP) Il est une honte pour la République française, une insulte à notre histoire, une blessure pour les valeurs de la France que nous aimons. (Bernard Roman, PS, 2006-05-02-2, 218)

History and values of the republic are linked to each, and both are used to legitimise a certain openness towards immigration in general by leftist speakers. The conservative group that is accused of violating these principles feels coerced to show its ties to these values (e.g. Philippe Goujon, UMP, 2007-09-18-1, 236: *les valeurs républicaines*; Nicolas Sarkozy, UMP; 2006-05-17-1, 27: *l'idéal républicain*).

Besides these considerations, the circumstances of World War II are also regularly mentioned and constitute another reference to a historic space and time. This element is lacking in the German discourse, although it could theoretically be useful to allude to the persecution and deportation of people that was carried out by the German state. Although it has often been argued that German migration policies and the relatively liberal asylum system are at least partially the answer to Germany's history (Joerke 1998; Hollifield 2000: 116), a similar discursive process cannot be observed with regard to legalisation. This argument is another hint at the technical character of the German discourse. Speakers in the *Assemblée nationale*, however, allude to the French *résistance* and the Nazi regime in Germany (for example Jean-Pierre Brard, PCF, 2007-09-19-1, 61 and 68; Daniel Garrigue, UMP, 2007-09-19-3, 135).

Apart from historical references, the differences between France and Germany regarding the concept of humanitarian needs are rather small. The French peculiarity that conservative speakers also refer to humanitarian aspects has already been mentioned in the quantitative analysis. The interpretation by members of the UMP basically does not differ from that of other speakers, although conservative politicians use less-drastring formulations to describe the poor living conditions of illegal immigrants<sup>37</sup>:

Ce que nous refusons, c'est la régularisation automatique. Mais au fond, nous allons instituer plus de dynamisme, plus d'humanité et un meilleur respect des personnes. (Christian Estrosi, UMP, 2006-05-05-3, 207)

Cette instance sera chargée d'harmoniser les pratiques préfectorales en matière de régularisation [...], au regard notamment des exigences humanitaires (Christian Estrosi, UMP, 2006-05-05-2, 256)

Leftist speakers use stronger expressions like *exploitation* (Patrick Braouezec, PCF, 2003-07-09-2, 272), *précarité* (Patrick Braouezec, PCF, 2003-07-08-3, 149), *désespoir* (Patrick Braouezec, PC, 2006-05-05-2, 50), or *des drames humains* (Danièle Hoffman-Rispal, PS, 2006-05-05-2, 103). However, speakers of the PS use such terms less often than people from the extreme left.

Some speakers construct legalisation explicitly or implicitly as something like a right that illegal immigrants can (almost) claim. When it comes to residence rights for people who are married to French citizens or lawfully residing foreigners, art. 8 ECHR (see section 2.1) is sometimes mentioned instead of national norms to show support for legalisation of this group of foreigners.

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<sup>37</sup> There are also exceptions of this general observation, for example Nicolas Sarkozy (UMP) who speaks of situations humaines dramatiques (2006-05-05-2, 402).

Moreover, leftist members of parliament unsuccessfully tried to defend the stipulation of art. 24 of the aliens law, which is

très important pour tous ceux qui pouvaient se voir régularisés après dix ans de séjour sur notre territoire. Vous leur avez personnellement refusé ce droit, Monsieur le ministre ; vous n'avez même pas accepté de revenir à la régularisation systématique au-delà de quinze ans. (Patrick Braouezec, PCF, 2006-05-17-1, 74)

Sarkozy unsurprisingly denies the existence of such a right ("je ne pense pas qu'il existe un droit à la régularisation"; 2006-05-05-2, 407), which represents the conservative position.

This view on legalisation is similar to that described in the section on definitions of legalisation. There is a French interpretation of legalisation as a form of amnesty that is common for certain offences like tax evasion. According to this view, the formerly established permanent right to file an application to regularisation with the responsible administration after fifteen or ten years of illegal residence and practical concessions on account of humanitarian reasons became an established right that illegal immigrants can rely on. This resembles the transformation of custom into law in international law theory, although one important precondition is lacking in the case of legalisation in France: This custom is not generally accepted as a right that illegal immigrants are entitled to, although the written law does provide this possibility (within certain limits).

## **9. Results: The German and French discourses in comparison**

Even without reading the arguments in detail, the first quantitative analysis has shown that we can find two more or less separate discourses in Germany. One sees legalisation predominantly under the control aspect and the other stresses humanitarian reasons. These two sets of arguments can be easily identified because there are two sharply separate groups of proponents along the right-left cleft. They do not necessarily exclude each other because elements of both discourses can be mixed, as the FDP statements in Germany and wide parts of the discourse in France demonstrate. Compared to France, the control-based and the humanitarian-pragmatic views on legalisation are not very mixed at the political level. Furthermore, the whole spectrum of opinions is moved towards tighter positions in Germany, whereas the rejection of the instrument is less fierce in France.

Given these observations, it is not surprising that it was more difficult to find documentary evidence on legalisation in German parliamentary debates than in the *Assemblée na-*



*tionale*. This finding is surely a result of the fact that legalisation is openly debated in France, while granting residence permits to tolerated people conceals legalisation. Legitimising these administrative acts is less necessary in the German context, although legalisation in general causes much distrust.

Quasi-legalisation is discursively interpreted in a way that does not associate it with legalisation. Because there is an administrative routine that people without residence permits to be given a label that avoids the term "illegal", namely "tolerated", it is relatively easy to separate the discussion on legalisation and the discourse on residence permits for tolerated people. Only by framing it in this way is it possible to handle the problem pragmatically. The institution "toleration", which labels illegal residence in a politically acceptable manner, legitimises concessions towards immigrants that would otherwise be impossible or difficult. If politicians had to negotiate the granting of residence permits to illegal aliens, it would certainly be harder to come to the same solutions for the same group of people because of the hostile stance towards illegal immigrants. The influence of the different experiences regarding legalisation is also ascertained at the individual level by the findings of the preceding chapter: If amnesties have been implemented in the past, the probability of approving legalisation rises.

There are also noteworthy differences in the perception of problems concerning legalisation or comparable measures that lead to papers for people without residence permits. The argumentation pattern "coherence of the law" reveals that politicians of both countries legitimise their policy proposals by referring to the functioning of the aliens law and administrative processes. But they pursue different strategies. The German position is geared to follow the rule of law strictly. The treatment of illegal immigrants should uphold the law up to the point where case-by-case solutions become necessary because all other endeavours have failed. It is also argued in France that an excessively strict application of the normal aliens law endangers the coherence of the law. It is necessary to create adaptable rules and to legalise under certain circumstances illegal aliens whose existence threatens the coherence of law and administration. Legalisation is therefore necessary to a certain extent, even in the eyes of conservative politicians. In some respects, politicians are more concerned with the *de facto* situation of illegality than some exceptions to the letter of the law. German control-oriented politicians also recognize that exceptional rules may be necessary (though to a lesser extent than their French colleagues), but they still believe in the ability of the state to control immigration and the status of immigrants in Germany. Tighter rules are a solution to curb illegal immigration, whereas this assumption is heavily contested in France.

Regarding the methods of legitimising legalisation, the arguments in favour of solutions to old cases in Germany are sparse compared to the wide variation and quantity of arguments against concessions towards unwanted immigrants. Only the leftist parties, SPD, the *Grüne* and the *Linke* point out to a certain degree that old case solutions are a question of humanity, while speakers of CDU/CSU and some members of the SPD and FDP do not use these arguments for generating legitimacy. Representatives of the CDU in particular observe the basic lack of reconcilability with their normative convictions. Silence seems to be the best strategy to gain legitimacy for old-case solutions. Politicians do not produce many positive statements because they might lose by trying to tone down strong arguments against legalisation or even contradicting their prior statements. Therefore, nobody argues the pull effect will be limited because of the specific design of the policy. It seems to be better to conceal any supposed pull effect instead of mentioning a possible problem. This tactic is especially true in situations where the policy proposal is not challenged by political competitors or is only criticised as not far-reaching enough. This approach applies to the grand coalition and the policy on old cases, in which politicians from the government did not wish to respond to fears that this might be a harmful measure.

In France, however, leftist and centrist politicians constantly challenge the view that the pull effect or a reward for illegal behaviour exists in old-case solutions. Generally, politicians from the left to some members of the conservative faction are relatively pragmatic in finding solutions for inefficient aliens law. Because the legalisation-friendly discourse is able to match the control-based discourse, even conservative politicians refer to their opponents' arguments such as humanitarian aspects or pragmatic solutions. However, they do not go so far as to regard legalisation as a form of prescription, as do leftist and centrist members of parliament. But even German leftist speakers do not mention this idea. The accuracy of this assertion is tested in the next chapter.

In sum, generating legitimacy for legalisation is easier in France than in Germany. The problems associated with legalisation are not disputed in the *Bundestag*. Proponents of measures in favour of illegal immigrants have to appeal to humanitarian rights while pragmatic reasons are only carefully brought to bear. The opinion that even illegal immigration can be controlled prevails. Politicians who seek legitimacy for their proposals must take these structural differences into consideration, although the problem structure does not fundamentally differ from that in France.

## Annex: List of analysed documents

### A. Germany

14<sup>th</sup> to 16<sup>th</sup> parliamentary term (until June 2008)

The documents are easily accessible through

<http://drucksachen.bundestag.de/drucksachen/index.php?START=2> (Structure of citation in this chapter: document number, page number)

Document	Date	Content
14 <sup>th</sup> Bundestag		
PIPr. 14/11, pp. 604-622	3.12.1998	Erste Beratung des von den Abgeordneten Dr. Guido Westerwelle, Dr. Edzard Schmidt-Jortzig, Hildebrecht Braun (Augsburg), weiteren Abgeordneten und der Fraktion der F.D.P. eingebrachten Entwurfs eines Zuwanderungsbegrenzungs-gesetzes (ZuwBegrG)
PIPr. 14/14, pp. 942-943 and pp. 946- 956	10.12.1998	Aktuelle Stunde auf Verlangen der Fraktion der PDS Haltung der Bundesregie-rung zur öffentlichen Verunsicherung in der Euro-Region Neiße infolge der Ver-urteilung von Taxifahrern und Haltung der Bundesregierung zum Vorgehen des Bundesgrenzschutzes in diesem Zusammenhang
PIPr. 14/28, pp. 2295- 2297	19.03.1999	Excerpt of (speech by Ulla Jelpke, PDS) Tagesordnungspunkt 9: a) Erste Beratung des von den Abgeordneten Dr. Peter Struck, Otto Schily, weite-ren Abgeordneten der Fraktion SPD, den Abgeordneten Kerstin Müller (Köln), Rezzo Schlauch, weiteren Abgeordneten der Fraktion BÜNDNIS 90/DIE GRÜ-NEN, sowie den Abgeordneten Dr. Wolfgang Gerhardt, Dr. Guido Westerwelle, und weiteren Abgeordneten der Fraktion F.D.P. eingebrachten Entwurfs eines Gesetzes zur Reform des Staatsangehörigkeitsrechts (Drucksache 14/533) in Verbindung mit Zusatztagesordnungspunkt 6: a) Erste Beratung des von den Abgeordneten Dr. Jürgen Rüttgers, Erwin Mar-schewski, weiteren Abgeordneten und der Fraktion CDU/CSU eingebrachten Entwurfs eines Gesetzes zur Neuregelung des Staatsangehörigkeitsrechts (Staat-sangehörigkeitsneuregelungsgesetz) (Drucksache 14/535) b) Antrag der Abgeordneten Dr. Jürgen Rüttgers, Erwin Marschewski, weiterer Abgeordneter und der Fraktion CDU/CSU Modernes Ausländerrecht (Drucksache 14/532) c) Antrag der Abgeordneten Dr. Jürgen Rüttgers, Erwin Marschewski, weiterer Abgeordneter und der Fraktion CDU/CSU Integration und Toleranz (Drucksache 14/534)
PI-Pr. 14/40, pp. 3415- 3461	7.5.1999	Zweite und dritte Beratung des von den Abgeordneten Dr. Peter Struck, Otto Schily, Wilhelm Schmidt (Salzgitter) und weiteren Abgeordneten der Fraktion der SPD, den Abgeordneten Kerstin Müller (Köln), Rezzo Schlauch, Kristin Heyne und weiteren Abgeordneten der Fraktion BÜNDNIS 90/ DIE GRÜNEN sowie den Abgeordneten Dr. Wolfgang Gerhardt, Dr. Guido Westerwelle, Jörg van Essen und weiteren Abgeordneten der Fraktion der F.D.P. eingebrachten Ent-wurfs eines Gesetzes zur Reform des Staatsangehörigkeitsrechts – Drucksache 14/533 – (Erste Beratung 28. Sitzung) – Zweite und dritte Beratung des von den Abgeordneten Dr. Jürgen Rüttgers, Erwin Marschewski, Günter Baumann, weiteren Abgeordneten und der Fraktion der CDU/CSU eingebrachten Entwurfs eines Gesetzes zur Neuregelung des Staat-sangehörigkeitsrechts (Staatsangehörigkeitsneuregelungsgesetz – StANeuG) – Drucksache 14/535 – (Erste Beratung 28. Sitzung) Beschlussempfehlung und Bericht des Innenausschusses (4. Ausschuß) – Drucksache 14/867 – b) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuß) – zu dem Antrag der Abgeordneten Dr. Jürgen Rüttgers, Erwin Marschewski, Günter Baumann, weiterer Abgeordneter und der Fraktion der CDU/CSU Integra-tion und Toleranz – zu dem Antrag der Abgeordneten Dr. Jürgen Rüttgers, Erwin Marschewski,

		Günter Baumann, weiterer Abgeordneter und der Fraktion der CDU/CSU Modernes Ausländerrecht – Drucksachen 14/534, 14/532, 14/867
PIPr. 14/45, pp. 3729-3746	17.06.1999	Aktuelle Stunde auf Verlangen der Fraktionen SPD und BÜNDNIS 90/DIE GRÜNEN Situation der Flüchtlinge nach Beendigung der Kampfhandlungen im Kosovo
PIPr. 14/66, pp. 5868-5881	4.11.1999	Erste Beratung des von den Abgeordneten Erwin Marschewski, Wolfgang Zeitlmann, Wolfgang Bosbach, weiteren Abgeordneten und der Fraktion der CDU/CSU eingebrachten Entwurfs eines Gesetzes zur Änderung des Gesetzes über das Ausländerzentralregister und zur Einrichtung einer Warndatei
PIPr. 14/93, pp. 8555-8575	16.03.2000	b) Zweite und dritte Beratung des von den Abgeordneten Hanna Wolf (München), Lilo Friedrich (Mettmann), Dr. Cornelia Sonntag-Wolgast, weiterer Abgeordneter und der Fraktion der SPD sowie der Abgeordneten Irmgard Schewe-Gerigk, Marieluise Beck (Bremen), Claudia Roth (Augsburg), weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN eingebrachten Entwurfs eines Gesetzes zur Änderung des Ausländergesetzes – Drucksache 14/2368 – (Erste Beratung 84. Sitzung) Beschlussempfehlung und Bericht des Innenausschusses (4. Ausschuss) – Drucksache 14/2902 –
PIPr. 14/93, 8575-8601	16.03.2000	Beratung des Antrags der Abgeordneten Dr. Jürgen Rüttgers, Erwin Marschewski (Recklinghausen), Norbert Geis, weiterer Abgeordneter und der Fraktion der CDU/CSU Modernes europäisches Asyl- und Ausländerrecht, Anlage 4 – Drucksache 14/2695 –
PIPr. 14099, pp. 9284-9296	13.04.2000	Zweite und dritte Beratung des von den Abgeordneten Dr. Guido Westerwelle, Dr. Edzard Schmidt-Jortzig, Hildebrecht Braun (Augsburg), weiteren Abgeordneten und der Fraktion der F.D.P. eingebrachten Entwurfs eines Zuwanderungsbegrenzungs-gesetzes (ZuwBegrG) – Drucksache 14/48 – (Erste Beratung 11. Sitzung) Beschlussempfehlung und Bericht des Innenausschusses (4. Ausschuss) – Drucksache 14/2019 –
PIPr. 14/102, pp. 9528-9540	11.05.2000	Zweite und dritte Beratung des von den Abgeordneten Erwin Marschewski, Wolfgang Zeitlmann, Wolfgang Bosbach, weiteren Abgeordneten und der Fraktion der CDU/CSU eingebrachten Entwurfs eines Gesetzes zur Änderung des Gesetzes über das Ausländerzentralregister und zur Einrichtung einer Warndatei – Drucksache 14/1662 – (Erste Beratung 66. Sitzung) Beschlussempfehlung und Bericht des Innenausschusses (4. Ausschuss) – Drucksache 14/2745 –
PIPr. 14/152, pp. 14969-14974	15.02.2001	Erste Beratung des von den Abgeordneten Dr. Guido Westerwelle, Dr. Edzard Schmidt-Jortzig, weiteren Abgeordneten und der Fraktion F.D.P. eingebrachten Entwurfs eines Gesetzes zur Änderung des Ausländergesetzes (Drucksache 14/4893)
PIPr. 14/173, pp. 16978-16995	31.05.2001	a) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Wolfgang Bosbach, Erwin Marschewski (Recklinghausen), Meinrad Belle, weiterer Abgeordneter und der Fraktion der CDU/CSU Familienzusammenführung sachgerecht regeln – EU-Richtlinienvorschlag ablehnen – Drucksachen 14/4529, 14/5808 – b) Beratung der Unterrichtung durch die Bundesregierung Sechster Familienbericht; Familien ausländischer Herkunft in Deutschland Leistungen – Belastungen – Herausforderungen und Stellungnahme der Bundesregierung – Drucksache 14/4357 – Erste Beratung des vom Bundesrat eingebrachten Entwurfs eines Gesetzes zur Änderung des Ausländergesetzes – Drucksache 14/5266 – Entschließungsantrag der Fraktionen der SPD und des Bündnisses 90/Die Grünen zu dem Familienbericht der Bundesregierung
PIPr. 14/208, pp. 20509-20535	13.12.2001	5. a) Erste Beratung des von der Fraktion der SPD und des BÜNDNISSES 90/DIE GRÜNEN eingebrachten Entwurfs eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) – Drucksache 14/7387 – b) Erste Beratung des vom Bundesrat eingebrachten Entwurfs eines ... Gesetzes zur Änderung des Asylverfahrensgesetzes – Drucksache 14/7465 – c) Beratung des Antrags der Abgeordneten Wolfgang Bosbach, Erwin Marschewski (Recklinghausen), Meinrad Belle, weiterer Abgeordneter und der Frak-

		<p>tion der CDU/CSU Umfassendes Gesetz zur Steuerung und Begrenzung der Zuwanderung sowie zur Förderung der Integration jetzt vorlegen – Drucksache 14/6641 –</p> <p>d) Beratung des Berichts des Ausschusses für Familie, Senioren, Frauen und Jugend (13. Ausschuss) gemäß § 62 Abs. 2 der Geschäftsordnung zu dem Antrag der Abgeordneten Petra Bläss, Ulla Jelpke, Petra Pau, weiterer Abgeordneter und der Fraktion der PDS Anerkennung geschlechtsspezifischer Fluchtursachen als Asylgrund – Drucksachen 14/1083, 14/7767 –</p> <p>ZP 3 Beratung des Antrags der Fraktion der PDS Einwanderung und Flüchtlingsschutz menschenrechtlich gestalten – Drucksache 14/7810 –</p>
PIPr. 14/222, pp. 22107		<p>Erklärung nach § 31 GO der Abgeordneten Ulla Jelpke (PDS) zu der namentlichen Abstimmung über den von der Bundesregierung eingebrachten Entwurf eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) und über den von den Fraktionen der SPD und des BÜNDNISSES 90/DIE GRÜNEN eingebrachten Entwurf eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) (Drucksachen 14/7987, 14/8046, Drucksache 14/7387 und Drucksache 14/8395)</p>
PIPr. 14/222, pp. 22018-22059	1.3.2002	<p>18 a) – Zweite und dritte Beratung des von der Bundesregierung eingebrachten Entwurfs eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) – Drucksachen 14/7987, 14/8046 – (Erste Beratung 212. Sitzung)</p> <p>– Zweite und dritte Beratung des von den Fraktionen der SPD und des BÜNDNISSES 90/DIE GRÜNEN eingebrachten Entwurfs eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) – Drucksache 14/7387 – (Erste Beratung 208. Sitzung)</p> <p>– Zweite und dritte Beratung des vom Bundesrat eingebrachten Entwurfs eines Gesetzes zur Änderung des Asylverfahrensgesetzes – Drucksache 14/7465 – (Erste Beratung 208. Sitzung)</p> <p>– Zweite und dritte Beratung des vom Bundesrat eingebrachten Entwurfs eines Gesetzes zur Änderung des Ausländergesetzes – Drucksache 14/8009 – (Erste Beratung 215. Sitzung)</p> <p>– Zweite und dritte Beratung des von den Abgeordneten Dr. Guido Westerwelle, Dr. Edzard Schmidt-Jortzig, Dr. Max Stadler, weiteren Abgeordneten und der Fraktion der FDP eingebrachten Entwurfs eines Gesetzes zur Regelung der Zuwanderung – Drucksache 14/3679 – (Erste Beratung 133. Sitzung)</p> <p>aa) Beschlussempfehlung und Bericht des Innenausschusses (4. Ausschuss) – Drucksachen 14/8395, 14/8414 –</p> <p>bb) Bericht des Haushaltsausschusses (8. Ausschuss) gemäß § 96 der Geschäftsordnung – Drucksache 14/8399 –</p> <p>b) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) – zu dem Antrag der Abgeordneten Wolfgang Bosbach, Erwin Marschewski (Recklinghausen), Meinrad Belle, weiterer Abgeordneter und der Fraktion der CDU/CSU Umfassendes Gesetz zur Steuerung und Begrenzung der Zuwanderung sowie zur Förderung der Integration jetzt vorlegen</p> <p>– zu dem Antrag der Abgeordneten Dr. Guido Westerwelle, Dr. Edzard Schmidt-Jortzig, Dr. Max Stadler, weiterer Abgeordneter und der Fraktion der FDP „Berliner Rede“ des Bundespräsidenten umsetzen – Zuwanderung nach Deutschland verbindlich regeln</p> <p>– zu dem Antrag der Fraktion der PDS Einwanderung und Flüchtlingsschutz menschenrechtlich gestalten – Drucksachen 14/6641, 14/3697, 14/7810, 14/8395, 14/8414 –</p> <p>c) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Cornelia Pieper, Dr. Guido Westerwelle, Dirk Niebel, weiterer Abgeordneter und der Fraktion der FDP Zuwanderung steuern, Aus- und Weiterbildung intensivieren, Arbeitserlaubnisrecht ent-rümpeln – Drucksachen 14/3023, 14/3721 –</p> <p>d) Beratung der Unterrichtung durch die Bundesregierung Migrationsbericht der</p>

		<p>Ausländerbeauftragten – Drucksache 14/7720 –          ZP 8 Beratung der Beschlussempfehlung und des Berichts des Ausschusses für Familie, Senioren, Frauen und Jugend (13. Ausschuss) – zu der Unterrichtung durch die Bundesregierung Sechster Familienbericht Familien ausländischer Herkunft in Deutschland; Leistungen – Belastungen – Herausforderungen und Stellungnahme der Bundesregierung – zu dem Entschließungsantrag der Abgeordneten Christel Riemann-Hanewinkel, Dr. Hans- Peter Bartels, Anni Brandt-Elsweier, weiterer Abgeordneter und der Fraktion der SPD sowie der Abgeordneten Irmingard Schewe-Gerigk, Kerstin Müller (Köln), Rezzo Schlauch und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN zu der Unterrichtung durch die Bundesregierung          Sechster Familienbericht Familien ausländischer Herkunft in Deutschland; Leistungen – Belastungen – Herausforderungen und Stellungnahme der Bundesregierung – Drucksachen 14/4357, 14/6169, 14/8393 –</p>
PIPr. 14/223, pp. 22149-22152	13.3.2002	<p>Fragestunde          Identitätsfeststellung der Antragsteller im Asylverfahren          MdlAnfr 25          Wolfgang Dehnel CDU/CSU          Antw PStSekt Fritz Rudolf Körper BMI          ZusFr Wolfgang Dehnel CDU/CSU          Erkennungsdienstliche Maßnahmen zur Identitätsfeststellung der Antragsteller im Asylverfahren          MdlAnfr 26          Wolfgang Dehnel CDU/CSU          Antw PStSekt Fritz Rudolf Körper BMI          ZusFr Wolfgang Dehnel CDU/CSU</p>
15 <sup>th</sup> Bundestag		
PIPr 15/31, pp. 2316-2348	13. März 2003	<p>a) Erste Beratung des von der Bundesregierung eingebrachten Entwurfs eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz) – Drucksachen 15/420, 15/522 –          b) Beratung der Unterrichtung durch die Beauftragte der Bundesregierung für Ausländerfragen Bericht über die Lage der Ausländer in der Bundesrepublik Deutschland – Drucksache 14/9883 –          c) Erste Beratung des von den Abgeordneten Dr. Max Stadler, Rainer Funke, Sibylle Laurischk, weiteren Abgeordneten und der Fraktion der FDP eingebrachten Entwurfs eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungssteuerungs- und Integrationsgesetz) – Drucksache 15/538 –          d) Beratung des Antrags der Abgeordneten Ernst Burgbacher, Hans-Michael Goldmann, Dirk Niebel, weiterer Abgeordneter und der Fraktion der FDP Arbeitserlaubnis für ausländische Saisonarbeitskräfte auf sechs Monate ausweiten – Drucksache 15/368 –</p>
PIPr. 15/66, pp. 5677-5686	16.10.2003	<p>Erste Beratung des von den Abgeordneten Wolfgang Bosbach, Hartmut Koschyk, Thomas Strobl (Heilbronn), weiteren Abgeordneten und der Fraktion der CDU/CSU eingebrachten Entwurfs eines Gesetzes zur wirksamen Bekämpfung organisierter Schleuserkriminalität (Gesetz zur Änderung des Ersten Gesetzes zur Änderung des Bundesgrenzschutzgesetzes) – Drucksache 15/1560 –</p>
PIPr. 15/76, pp. 6606-6611	14.11.2003	<p>a) – Zweite und dritte Beratung des von der Bundesregierung eingebrachten Entwurfs eines Gesetzes zur Änderung des Ersten Gesetzes zur Änderung des Bundesgrenzschutzgesetzes (Drucksachen 15/1861, 15/1965)          – Zweite und dritte Beratung des von den Abgeordneten Wolfgang Bosbach, Hartmut Koschyk, weiteren Abgeordneten und der Fraktion der CDU/CSU eingebrachten Entwurfs eines Gesetzes zur wirksamen Bekämpfung organisierter Schleuserkriminalität (Gesetz zur Änderung des Ersten Gesetzes zur Änderung des Bundesgrenzschutzgesetzes) (Drucksachen 15/1560, 15/2005)          b) Beschlussempfehlung und Bericht des Innenausschusses zu dem Antrag der Abgeordneten Wolfgang Bosbach, Hartmut Koschyk, weiterer Abgeordneter und der Fraktion der CDU/CSU: Bundesgrenzschutz für die EU-Osterweiterung tauglich machen</p>

PIPr. 15/118, pp. 10822	1.7.2004	Erklärung nach § 31 GO der Abgeordneten Christa Nickels (BÜNDNIS 90/DIE GRÜNEN) zur Abstimmung über die Beschlussempfehlung des Vermittlungsausschusses zu dem Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz)
PIPr. 15/138, pp. 12739- 12745	11.11.2004	Beratung des Antrags der Abgeordneten Ute Granold, Roland Gewalt, Wolfgang Bosbach, weiterer Abgeordneter und der Fraktion der CDU/CSU: Scheinvaterschaften wirksam bekämpfen (Drucksache 15/4028)
PIPr. 15/145, pp. 13496- 13515	2.12.2004	Beratung des Antrags der Abgeordneten Dr. Angela Merkel, Michael Glos, Siegfried Kauder (Bad Dürkheim), weiterer Abgeordneter und der Fraktion der CDU/CSU Einsetzung eines Untersuchungsausschusses – Drucksache 15/4285 –
PIPr. 15/149, pp. 13989- 14002	17.12.2004	Beratung der Beschlussempfehlung und des Berichts des Ausschusses für Wahlprüfung, Immunität und Geschäftsordnung (1. Ausschuss) zu dem Antrag der Abgeordneten Dr. Angela Merkel, Michael Glos, Siegfried Kauder (Bad Dürkheim), weiterer Abgeordneter und der Fraktion der CDU/CSU Einsetzung eines Untersuchungsausschusses – Drucksachen 15/4285, 15/4552 –
PIPr. 15/179, pp. 16925- 16932	3.6.2005	a) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Wolfgang Bosbach, Hartmut Koschyk, Thomas Strobl (Heilbronn), weiterer Abgeordneter und der Fraktion der CDU/CSU Abschiebehindernisse beseitigen – Drucksachen 15/3804, 15/5193 – b) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Wolfgang Bosbach, Hartmut Koschyk, Dr. Norbert Röttgen, weiterer Abgeordneter und der Fraktion der CDU/CSU Konsequente Abschiebung ausländischer Extremisten sicherstellen – Drucksachen 15/1239, 15/5525 –
PIPr. 15/184, pp. 17349- 17361	30.6.2005	a) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) – zu dem Antrag der Fraktionen der SPD und des BÜNDNISSES 90/DIE GRÜNEN Zusammenleben auf der Basis gemeinsamer Grundwerte – zu dem Antrag der Abgeordneten Wolfgang Bosbach, Hartmut Koschyk, Kristina Köhler (Wiesbaden), weiterer Abgeordneter und der Fraktion der CDU/CSU Politischen Islamismus bekämpfen – Verfassungstreue Muslime unterstützen – zu dem Antrag der Abgeordneten Dr. Max Stadler, Klaus Haupt, Ernst Burgbacher, weiterer Abgeordneter und der Fraktion der FDP Kulturelle Vielfalt – Universelle Werte – Neue Wege zu einer rationalen Integrationspolitik – Drucksachen 15/4394, 15/4260, 15/4401, 15/5238 – b) Zweite und dritte Beratung des vom Bundesrat eingebrachten Entwurfs eines Gesetzes zur Errichtung einer gemeinsamen Datei der deutschen Sicherheitsbehörden zur Beobachtung und Bekämpfung des islamistischen Extremismus und Terrorismus (Anti-Terror-Datei-Gesetz) – Drucksache 15/4413 – Beschlussempfehlung und Bericht des Innenausschusses (4. Ausschuss) – Drucksache 15/5239 – c) Erste Beratung des von den Abgeordneten Wolfgang Bosbach, Hartmut Koschyk, Thomas Strobl (Heilbronn), weiteren Abgeordneten und der Fraktion der CDU/CSU eingebrachten Entwurfs eines Gesetzes über die Eidesleistung bei Einbürgerungen – Drucksache 15/5020 –
PIPr. 15/186, pp. 17549- 17566	7.9.2005	a) Beratung der Beschlussempfehlung und des Berichts des 2. Untersuchungsausschusses nach Art. 44 des Grundgesetzes – Drucksache 15/5975 – b) Beratung des Antrags der Abgeordneten Hellmut Königshaus, Dr. Max Stadler, Dr. Werner Hoyer, weiterer Abgeordneter und der Fraktion der FDP Verbesserung der Praxis der Visavergabe und Schaffung gemeinsamer Visastellen der Schengenstaaten – Drucksache 15/5977 –
16 <sup>th</sup> Bundestag		
PIPr. 16/16 pp. 1187A - 1194C	9.2.2006	Erste Beratung des von den Abgeordneten Josef Philip Winkler, Volker Beck (Köln), Wolfgang Wieland, weiteren Abgeordneten und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN eingebrachten Entwurfs eines Gesetzes zur Verbesserung der sozialen Situation von Ausländerinnen und Ausländern, die ohne Aufenthaltsstatus in Deutschland leben – Drucksache 16/445 –
PIPr. 16/25, pp. 2021- 2024	16.3.2006	Antrag der Abgeordneten Josef Philip Winkler, Volker Beck (Köln), Britta Haßelmann, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN: Kettenduldungen abschaffen (Drucksache 16/687)

PIPr. 16/43 pp. 4166-4171	29.6.2006	Beratung des Antrags der Abgeordneten Sevim Dagdelen, Ulla Jelpke, Petra Pau, weiterer Abgeordneter und der Fraktion der LINKEN: Einbürgerungen erleichtern – Ausgrenzungen ausschließen (Drucksache 16/1770)
PIPr. 16/51 pp. 5033-5038	21.9.2006	Beratung des Antrags der Abgeordneten Ulla Jelpke, Sevim Dagdelen, Dr. Hakki Keskin, weiterer Abgeordneter und der Fraktion der LINKEN: Auswirkungen des Zuwanderungsgesetzes sofort evaluieren (Drucksache 16/1204)
PIPr. 16/57 5566-5567	19.10.2006	Beschlussempfehlung und Bericht des Ausschusses für Menschenrechte und Humanitäre Hilfe – zu der Unterrichtung durch die Bundesregierung: Siebter Bericht der Bundesregierung über ihre Menschenrechtspolitik in den auswärtigen Beziehungen und in anderen Politikbereichen – zu dem Antrag der Abgeordneten Burkhardt Müller-Sönksen, Florian Toncar, Dr. Karl Addicks, weiterer Abgeordneter und der Fraktion der FDP: 7. Bericht der Bundesregierung über ihre Menschenrechtspolitik in den auswärtigen Beziehungen und in anderen Politikbereichen (Drucksachen 15/5800, 16/1999, 16/3004) in Verbindung mit Antrag der Abgeordneten Volker Beck (Köln), Birgitt Bender, Dr. Uschi Eid, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN: Menschenrechte in Zentralasien stärken (Drucksache 16/2976) in Verbindung mit Antrag der Abgeordneten Holger Haibach, Erika Steinbach, Carl-Eduard von Bismarck, weiterer Abgeordneter und der Fraktion der CDU/CSU sowie der Abgeordneten Dr. Herta Däubler-Gmelin, Christoph Strässer, Niels Annen, weiterer Abgeordneter und der Fraktion der SPD: Der Menschenrechtsrat der Vereinten Nationen – Wirksamkeit sichern und Glaubwürdigkeit schaffen (Drucksache 16/3001)
PIPr. 16/63, pp. 6292-6295	9.11.2006	Beschlussempfehlung und Bericht des Innenausschusses zu dem Antrag der Abgeordneten Sevim Dagdelen, Petra Pau, Ulla Jelpke, weiterer Abgeordneter und der Fraktion der LINKEN: Bundesweiter Abschiebestopp für Flüchtlinge aus Togo (Drucksachen 16/2627, 16/3061)
PIPr. 16/76 pp. 7629-7635	18.1.2007	Beratung des Antrags der Abgeordneten Josef Philip Winkler, Omid Nouripour, Claudia Roth (Augsburg) und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Für eine Initiative der Bundesregierung mit dem Ziel einer humanitären, kohärenten und nachhaltigen Ausrichtung der europäischen Flüchtlingspolitik – Drucksache 16/3541 –
PIPr. 16/82, 8198-8202	1.3.2007	a) Abgabe einer Erklärung durch die Bundeskanzlerin: zum Europäischen Rat in Brüssel am 8./9. März 2007
PIPr. 16/91 pp. 9203-9211	29.3.2007	a) Beratung des Antrags der Abgeordneten Sevim Dagdelen, Wolfgang Nešković, Petra Pau, weiterer Abgeordneter und der Fraktion der LINKEN Grundsätzliche Überprüfung der Abschiebungshaft, ihrer rechtlichen Grundlagen und der Inhaftierungspraxis in Deutschland – Drucksache 16/3537 – b) Beratung des Antrags der Abgeordneten Josef Philip Winkler, Omid Nouripour, Volker Beck (Köln), weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Humanitäre Standards bei Rückführungen achten – Drucksache 16/4851 –
PIPr 16/94, 9611-9617, 9543-9567	26.4.2007	Beratung der Beschlussempfehlung und des Berichts des Ausschusses für wirtschaftliche Zusammenarbeit und Entwicklung (19. Ausschuss) zu dem Antrag der Fraktionen CDU/CSU, SPD, FDP und des BÜNDNISSES 90/DIE GRÜNEN Diaspora – Potenziale von Migrantinnen und Migranten für die Entwicklung der Herkunftsländer nutzen – Drucksachen 16/4164, 16/5119 – 6 a) Erste Beratung des von der Bundesregierung eingebrachten Entwurfs eines Gesetzes zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union – Drucksache 16/5065 – b) Erste Beratung des von den Abgeordneten Volker Beck (Köln), Josef Philip Winkler, Britta Haßelmann, weiteren Abgeordneten und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN eingebrachten Entwurfs eines – Gesetzes zur Änderung des Aufenthaltsgesetzes – Drucksache 16/3198 – c) Beratung des Antrags der Abgeordneten Sevim Dagdelen, Petra Pau, Ulla Jelpke, weiterer Abgeordneter und der Fraktion der LINKEN Für einen umfassenden Schutz religiös Verfolgter in der Bundesrepublik Deutschland – Drucksache



		<p>16/4487 –</p> <p>d) Beratung des Antrags der Abgeordneten Hartfrid Wolff (Rems-Murr), Dr. Max Stadler, Sibylle Laurischk, weiterer Abgeordneter und der Fraktion der FDP Das Aufenthaltsrecht für Hochqualifizierte und Selbständige ändern – Integration maßgeblich verbessern – Drucksache 16/4609 –</p> <p>e) Beratung des Antrags der Abgeordneten Hartfrid Wolff (Rems-Murr), Sabine Leutheusser-Schnarrenberger, Dr. Karl Addicks, weiterer Abgeordneter und der Fraktion der FDP Bleiberecht großzügig gestalten – Integration verbessern – Drucksache 16/4739 –</p> <p>f) Beratung des Antrags der Abgeordneten Sevim Dağdelen, Ulla Jelpke, Katja Kipping, weiterer Abgeordneter und der Fraktion der LINKEN Asylsuchende und geduldete Flüchtlinge beim Zugang zum Arbeitsmarkt gleichstellen – Drucksache 16/4907 –</p> <p>g) Beratung des Antrags der Abgeordneten Ulla Jelpke, Petra Pau, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion der LINKEN Die deutsche EU-Ratspräsidentschaft für eine grundlegende Wende der europäischen Migrations- und Flüchtlingspolitik nutzen – Drucksache 16/5109 –</p> <p>h) Beratung des Antrags der Abgeordneten Josef Philip Winkler, Volker Beck (Köln), Irmgard Schewe-Gerigk, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Für ein integrationsförderndes, menschenrechtskonformes und humanitär ausgewogenes Zuwanderungsgesetz – Drucksache 16/5103 –</p> <p>i) Beratung des Antrags der Abgeordneten Dr. Thea Dückert, Kerstin Andreae, Josef Philip Winkler, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Zuzug von Hochqualifizierten erleichtern – Drucksache 16/5116 –</p> <p>j) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Ulla Jelpke, Sevim Dağdelen, Dr. Hakki Keskin, weiterer Abgeordneter und der Fraktion der LINKEN Die Welt zu Gast bei Freunden – Für eine offenere Migrations- und Flüchtlingspolitik in Deutschland und in der Europäischen Union – Drucksachen 16/1199, 16/4039 – ZP 4 Beratung des Antrags der Abgeordneten Ulla Jelpke, Sevim Dağdelen, Petra Pau, weiterer Abgeordneter und der Fraktion der LINKEN Für Humanität und Menschenrechte statt wirtschaftlicher – Nützlichkeit – als Grundprinzipien der Migrationspolitik – Drucksache 16/5108 –</p> <p>ZP 9 Beratung des Antrags der Abgeordneten Sevim Dağdelen, Dr. Norman Paech, Hüseyin-Kenan Aydin, weiterer Abgeordneter und der Fraktion der LINKEN. Abschiebestopp und Schutz für Flüchtlinge aus Afghanistan – Drucksache 16/5141 –</p> <p>ZP 10 Beratung der Unterrichtung durch die Bundesregierung Migrationsbericht 2005 – Drucksache 16/2000 –</p>
PIPr. 16/103 pp. 10584-10610	14.6.2007	<p>14 a) – Zweite und dritte Beratung des von der Bundesregierung eingebrachten Entwurfs eines Gesetzes zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union – Drucksachen 16/5065, 16/5527 –</p> <p>– Zweite und dritte Beratung des von den Abgeordneten Volker Beck (Köln), Josef Philip Winkler, Britta Haßelmann, weiteren Abgeordneten und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN eingebrachten Entwurfs eines Gesetzes zur Änderung des Aufenthaltsgesetzes – Drucksache 16/3198</p> <p>– Beschlussempfehlung und Bericht des Innenausschusses (4. Ausschuss) – Drucksachen 16/5621, 16/5654 –</p> <p>b) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss)</p> <p>– zu dem Antrag der Abgeordneten Sibylle Laurischk, Hartfrid Wolff (Rems-Murr), Michael Kauch, weiterer Abgeordneter und der Fraktion der FDP Sprache schafft Identität und ist Schlüssel zur Integration</p> <p>– zu dem Antrag der Abgeordneten Hartfrid Wolff (Rems-Murr), Dr. Max Stadler, Sibylle Laurischk, weiterer Abgeordneter und der Fraktion der FDP Das Aufenthaltsrecht für Hochqualifizierte und Selbständige ändern – Integration maßgeblich verbessern</p> <p>– zu dem Antrag der Abgeordneten Hartfrid Wolff (Rems-Murr), Sabine Leutheusser-Schnarrenberger, Dr. Karl Addicks, weiterer Abgeordneter und der Frak-</p>

		<p>tion der FDP Bleiberecht großzügig gestalten – Integration verbessern</p> <p>– zu dem Antrag der Abgeordneten Ulla Jelpke, Sevim Dağdelen, Dr. Hakki Keskin, weiterer Abgeordneter und der Fraktion der LINKEN Auswirkungen des Zuwanderungsgesetzes sofort evaluieren</p> <p>– zu dem Antrag der Abgeordneten Sevim Dağdelen, Petra Pau, Ulla Jelpke, weiterer Abgeordneter und der Fraktion der LINKEN Für einen umfassenden Schutz religiös Verfolgter in der Bundesrepublik Deutschland</p> <p>– zu dem Antrag der Abgeordneten Sevim Dağdelen, Ulla Jelpke, Katja Kipping, weiterer Abgeordneter und der Fraktion der LINKEN Asylsuchende und geduldete Flüchtlinge beim Zugang zum Arbeitsmarkt gleichstellen</p> <p>– zu dem Antrag der Abgeordneten Ulla Jelpke, Sevim Dağdelen, Petra Pau, weiterer Abgeordneter und der Fraktion der LINKEN Für Humanität und Menschenrechte statt wirtschaftlicher „Nützlichkeit“ als Grundprinzipien der Migrationspolitik</p> <p>– zu dem Antrag der Abgeordneten Josef Philip Winkler, Volker Beck (Köln), Irmgard Schewe-Gerigk, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Für ein integrationsförderndes, menschenrechtskonformes und humanitär ausgewogenes Zuwanderungsgesetz</p> <p>– zu dem Antrag der Abgeordneten Dr. Thea Dückert, Kerstin Andreae, Josef Philip Winkler, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Zuzug von Hochqualifizierten erleichtern – Drucksachen 16/2092, 16/4609, 16/4739, 16/1204, 16/4487, 16/4907, 16/5108, 16/5103, 16/5116, 16/5621, 16/5654 –</p> <p>c) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Josef Philip Winkler, Volker Beck (Köln), Britta Haßelmann, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Zwischenbilanz für Integrationskurse des Jahres 2005 vorlegen – Drucksachen 16/940, 16/1704 –</p> <p>d) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Josef Philip Winkler, Volker Beck (Köln), Monika Lazar, weiterer Abgeordneter und der Fraktion des BÜNDNISSES 90/DIE GRÜNEN Für eine wirksame Bleiberechtsregelung für langjährig in Deutschland geduldete Personen – Drucksachen 16/3340, 16/4828 –</p>
PIPr. 16/123 pp. 12928-12929	8.11.2007	Beschlussempfehlung und Bericht des Ausschusses für die Angelegenheiten der Europäischen Union zu dem Antrag der Abgeordneten Rainer Steenblock, Jürgen Trittin, Omid Nouripour, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN: Die Erweiterungs- und Nachbarschaftspolitik der Europäischen Union weiter entwickeln (Drucksachen 16/5425, 16/6977)
PIPr. 16/133 pp. 14045-14050	13.12.2007	<p>a) Antrag der Abgeordneten Jürgen Trittin, Josef Philip Winkler, Omid Nouripour, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN: Hilfe für irakische Flüchtlinge ausweiten – Im Irak, in Nachbarländern und in Deutschland (Drucksache 16/7468)</p> <p>b) Beschlussempfehlung und Bericht des Innenausschusses</p> <p>– zu dem Antrag der Abgeordneten Ulla Jelpke, Petra Pau, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Irakische Flüchtlinge in die EU aufnehmen – In Deutschland lebende Irakerinnen und Iraker vor Abschiebung schützen</p> <p>– zu dem Antrag der Abgeordneten Volker Beck (Köln), Marieluise Beck (Bremen), Alexander Bonde, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN: Schutz für irakische Flüchtlinge gewährleisten (Drucksachen 16/5248, 16/5414, 16/6763)</p>
PIPr. 16/142, pp. 15037-15043	14.2.2008	<p>Beschlussempfehlung und Bericht des Innenausschusses</p> <p>– zu dem Antrag der Abgeordneten Josef Philip Winkler, Omid Nouripour, Claudia Roth (Augsburg) und der Fraktion BÜNDNIS 90/DIE GRÜNEN: Für eine Initiative der Bundesregierung mit dem Ziel einer humanitären, kohärenten und nachhaltigen Ausrichtung der europäischen Flüchtlingspolitik</p> <p>– zu dem Antrag der Abgeordneten Ulla Jelpke, Petra Pau, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Die deutsche EU-Ratspräsidentschaft für eine grundlegende Wende der europäischen Migrations- und Flüchtlingspolitik nutzen (Drucksachen 16/3541, 16/5109, 16/6910)</p>
PIPr. 16/161,	9.5.2008	a) Beratung der Unterrichtung durch die Bundesregierung Migrationsbericht 2006

16977-16995		– Drucksache 16/7705 – b) Beratung der Unterrichtung durch die Bundesregierung Erfahrungsbericht der Bundesregierung zu Durchführung und Finanzierung der Integrationskurse nach § 43 Abs. 5 des Aufenthaltsgesetzes – Drucksache 16/6043 –
PIPr. 16/166, 17579-17580	5.6.2008	a) Antrag der Abgeordneten Volker Beck (Köln), Marieluise Beck (Bremen), Alexander Bonde, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN: Eine kohärente und konsistente Menschenrechtspolitik gegenüber China entwickeln (Drucksache 16/9422) b) Große Anfrage der Abgeordneten Volker Beck (Köln), Winfried Hermann, Marieluise Beck (Bremen), weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN: Menschenrechtslage im Vorfeld der Olympischen Sommerspiele 2008 in Beijing (Drucksachen 16/6175, 16/7273)
PIPr. 16/169, pp. 17845-17865	19.6.2008	4 a) Beratung der Unterrichtung durch die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration Siebter Bericht über die Lage der Ausländerinnen und Ausländer in Deutschland – Drucksache 16/7600 – b) Beratung der Beschlussempfehlung und des Berichts des Innenausschusses (4. Ausschuss) zu dem Antrag der Abgeordneten Sevim Dağdelen, Ulla Jelpke, Jan Korte und der Fraktion DIE LINKE Für die zügige Vorlage eines qualifizierten Berichts über die Lage der Ausländerinnen und Ausländer in Deutschland – Drucksachen 16/5788, 16/7246 – ZP 1 Beratung des Antrags der Abgeordneten Sibylle Laurischk, Dr. Max Stadler, Gisela Piltz, weiterer Abgeordneter und der Fraktion der FDP Integrationskurse qualitativ verbessern und entbürokratisieren – Drucksache 16/9593 – ZP 2 Beratung des Antrags der Abgeordneten Josef Philip Winkler, Volker Beck (Köln), Monika Lazar, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN Das Parlament bei der Ausgestaltung des Einbürgerungstests beteiligen – Drucksache 16/9602 –

## B. France

The minutes of the French *Assemblée nationale* are not easily accessible. Therefore, the links to the documents are also included in the following. (Structure of citation in this chapter: year-month-day-number of session, number of paragraphe)

Session number	Period	Act	Access via internet
11 <sup>th</sup> Assemblée nationale			
Session extraordinaire de 2002-2003 - 3ème jour de séance, 8ème séance	2ème SÉANCE DU JEUDI 3 JUILLET 2003	MAÎTRISE DE L'IMMIGRATION ET SÉJOUR DES ÉTRANGERS EN FRANCE	<a href="http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/008.asp">http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/008.asp</a>
Session extraordinaire de 2002-2003 - 3ème jour de séance, 9ème séance	3ème SÉANCE DU JEUDI 3 JUILLET 2003	MAÎTRISE DE L'IMMIGRATION ET SÉJOUR DES ÉTRANGERS EN FRANCE (suite)	<a href="http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/009.asp">http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/009.asp</a>
Session extraordinaire de 2002-2003 - 6ème jour de séance, 14ème séance	1ère SÉANCE DU MARDI 8 JUILLET 2003	MAÎTRISE DE L'IMMIGRATION ET SÉJOUR DES ÉTRANGERS EN FRANCE (suite)	<a href="http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/014.asp">http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/014.asp</a>
Session extraordinaire de 2002-2003 - 6ème jour de séance, 15ème séance	2ème SÉANCE DU MARDI 8 JUILLET 2003	MAÎTRISE DE L'IMMIGRATION ET SÉJOUR DES ÉTRANGERS EN France (suite)	<a href="http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/015.asp">http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/015.asp</a>
Session extraordinaire de 2002-2003 - 6ème jour de séance, 16ème séance	3ème SÉANCE DU MARDI 8 JUILLET 2003	MAÎTRISE DE L'IMMIGRATION ET SÉJOUR DES ÉTRANGERS EN FRANCE (suite)	<a href="http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/016.asp">http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/016.asp</a>
Session extraordinaire de 2002-2003 - 7ème jour de séance, 17ème séance	1ère SÉANCE DU MERCREDI 9 JUILLET 2003	MAÎTRISE DE L'IMMIGRATION ET SÉJOUR DES ÉTRANGERS EN FRANCE (suite)	<a href="http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/017.asp">http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/017.asp</a>
Session extraordinaire	2ème SÉANCE	MAÎTRISE DE L'IMMI-	<a href="http://www.assemblee-">http://www.assemblee-</a>

de 2002-2003 - 7ème jour de séance, 18ème séance	DU MERCREDI 9 JUILLET 2003	GRATION ET SÉJOUR DES ÉTRANGERS EN FRANCE (suite)	<a href="http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/018.asp#P57_1287">nationale.fr/12/cra/2002-2003-extra/018.asp#P57_1287</a>
Session ordinaire de 2003-2004 - 15ème jour de séance, 37ème séance	1ère SÉANCE DU MARDI 28 OCTOBRE 2003	MAÎTRISE DE L'IMMIGRATION ET SÉJOUR DES ÉTRANGERS EN FRANCE (CMP)	<a href="http://www.assemblee-nationale.fr/12/cra/2003-2004/037.asp">http://www.assemblee-nationale.fr/12/cra/2003-2004/037.asp</a>
12 <sup>th</sup> Assemblée nationale			
86ème jour de séance, 202ème séance	2ème séance du mardi 2 mai 2006	projet de loi relatif à l'immigration et à l'intégration and Question au Gouvernement : Lutte contre l'immigration illégale en guadeloupe	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/202.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/202.asp</a>
86ème jour de séance, 203ème séance	3ème séance du mardi 2 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/203.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/203.asp</a>
87ème jour de séance, 204ème séance	1ère séance du mercredi 3 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/204.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/204.asp</a>
87ème jour de séance, 205ème séance	2ème séance du mercredi 3 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/205.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/205.asp</a>
88ème jour de séance, 206ème séance	1ère séance du jeudi 4 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/206.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/206.asp</a>
88ème jour de séance, 207ème séance	2ème séance du jeudi 4 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/207.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/207.asp</a>
88ème jour de séance, 208ème séance	3ème séance du jeudi 4 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/208.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/208.asp</a>
89ème jour de séance, 209ème séance	1ère séance du vendredi 5 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/209.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/209.asp</a>
89ème jour de séance, 210ème séance	2ème séance du vendredi 5 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/210.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/210.asp</a>
89ème jour de séance, 211ème séance	3ème séance du vendredi 5 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/211.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/211.asp</a>
90ème jour de séance, 213ème séance	2ème séance du mardi 9 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/213.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/213.asp</a>
90ème jour de séance, 214ème séance	3ème séance du mardi 9 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/214.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/214.asp</a>
91ème jour de séance, 215ème séance	1ère séance du mercredi 10 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/215.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/215.asp</a>
91ème jour de séance, 216ème séance	2ème séance du mercredi 10 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/216.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/216.asp</a>
94ème jour de séance, 223ème séance	1ère séance du mercredi 17 mai 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/223.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/223.asp</a>
110ème jour de séance, 258ème séance	2ème séance du vendredi 30 juin 2006	projet de loi relatif à l'immigration et à l'intégration	<a href="http://www.assemblee-nationale.fr/12/cra/2005-2006/258.asp">http://www.assemblee-nationale.fr/12/cra/2005-2006/258.asp</a>

13 <sup>th</sup> Assemblée nationale			
2 <sup>ème</sup> séance de la session	1 <sup>ère</sup> séance du 18 septembre 2007	projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile	<a href="http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/001.asp">http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/001.asp</a>
2 <sup>ème</sup> séance de la session	2 <sup>ème</sup> séance du mardi 18 septembre 2007	projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile	<a href="http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/002.asp">http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/002.asp</a>
3 <sup>ème</sup> séance de la session	1 <sup>ère</sup> séance du mercredi 19 septembre 2007	projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile	<a href="http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/003.asp">http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/003.asp</a>
4 <sup>ème</sup> séance de la session	2 <sup>ème</sup> séance du mercredi 19 septembre 2007	projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile	<a href="http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/004.asp">http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/004.asp</a>
5 <sup>ème</sup> séance de la session	3 <sup>ème</sup> séance du mercredi 19 septembre 2007	projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile	<a href="http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/005.asp">http://www.assemblee-nationale.fr/13/cra/2006-2007-extra2/005.asp</a>
18 <sup>ème</sup> séance de la session	1 <sup>ère</sup> séance du mardi 23 octobre 2007	projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile	<a href="http://www.assemblee-nationale.fr/13/cra/2007-2008/018.asp">http://www.assemblee-nationale.fr/13/cra/2007-2008/018.asp</a>
19 <sup>ème</sup> séance de la session	2 <sup>ème</sup> séance du mardi 23 octobre 2007	projet de loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile (45h)	<a href="http://www.assemblee-nationale.fr/13/cra/2007-2008/019.asp">http://www.assemblee-nationale.fr/13/cra/2007-2008/019.asp</a>

## D. Do amnesties increase illegal immigration?

### 1. Introduction

Regularisations have attracted much attention in recent years after Italy and Spain implemented huge legalisation campaigns that granted visas to more illegal immigrants than ever before. This action was criticised by other member states, most notably Germany and France. Nicolas Sarkozy and Wolfgang Schäuble came out against legalisation in their common paper on immigration presented at the G-6 meeting<sup>38</sup> of the Ministers of the Interior in Stratford-upon-Avon in October 2006: “In order to eliminate additional pull factors we must immediately go without legalising illegal immigrants. Illegal residents as well as aliens who did not comply with their obligation to leave the country after their legal permit of residence expired must return promptly to their countries of origin, either voluntarily or compulsorily” (Schäuble and Sarkozy 2006: 2; own translation). They not only reject illegal immigration from a legal perspective, but also because of the detrimental impact on the integration of the foreign population. Apart from these arguments, they also fear the so-called “pull effect”, to which they refer to in order to justify their policies against illegal immigration. Even the Commission (2006: 15) of the European Union admits that amnesties could have negative effects: “Based on the argument that regularizations may serve as a pull-factor for additional illegal immigration into the EU, common EU rules could be proposed that would provide for criteria under which such regularizations could be carried out”. In the meantime, it commissioned a report on the impacts of regularisation.<sup>39</sup> However, not only politicians in Northern Europe but also in countries that carry out amnesties more or less on a regular basis fear that such measures result in increasing illegal immigration. In Spain, the conservative *Partido Popular* accused the governing Socialists of producing an increase in illegal immigration through the *efecto llamado* (Yanel 2004). Although the climate concerning mass regularisations is changing, the Spanish government under Prime Minister José Luis Rodríguez Zapatero hindered an expressive ban on mass regulations in the “pact on immigration and asylum” proposed by the French presidency in July 2008. The European Council now “agrees to use only case-by-case regularisations, rather than generalised regularisations, under national law, for humanitarian or economic reasons” (Council of the European Union 2008: 7).

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<sup>38</sup> The largest six member states: Germany, France, United Kingdom, Italy, Spain, and Poland.

<sup>39</sup> This study (ICMPD 2009) was presented in winter 2009. It does not answer the question of whether there is a pull effect or not.

The aim of this paper is to examine the evidence to see whether it supports or refutes this allegation and to answer the question of whether and, if appropriate, how much, illegal immigration is triggered by large-scale amnesties. This question has been left unanswered in the European context and, in spite of its political relevance, research on the effects of legalisation campaigns is extremely underdeveloped. Very few studies have been dedicated to this subject in general and none at all in the European context (apart from the study already mentioned, which has a methodically less ambitious approach). This is probably because of scarce data regarding illegal immigration. I use a relatively unknown data set from the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (Cirefi) in the European Union (EU), which contains indicators for illegal immigration concerning the EU-15 from 1997 to 2006. I use the number of apprehended illegal immigrants as a proxy for the total number of illegal immigrants and conduct a panel analysis taking into account variables which are derived from immigration theories.<sup>40</sup>

Figure 1 shows the number of apprehensions in the countries that have made use of amnesties. Zero signifies the year when the first amnesty in the period of investigation was carried out. All lines follow an upward trend, although it is less clear in the case of Portugal and Belgium. In all other states, the change is obvious but in general there are wide gaps from one year to the next, indicating that the number of apprehensions is very susceptible to temporary changes. These volatilities are a result of changes in supply and demand parameters of immigration and are taken into account by this study. However, changes in control strategies and developments in the countries of origin may be influential as well. It is not possible to include the latter process in the estimation because there is no information on immigrants' countries of origin for all of the periods and countries included in this study. However, one could conclude that amnesties accelerate illegal immigration because in France, Spain, and Italy illegal immigration, measured as apprehensions of illegal immigrants, increased considerably and the numbers in Portugal and Belgium rose to a level similar to that two years before the legalisation campaign.

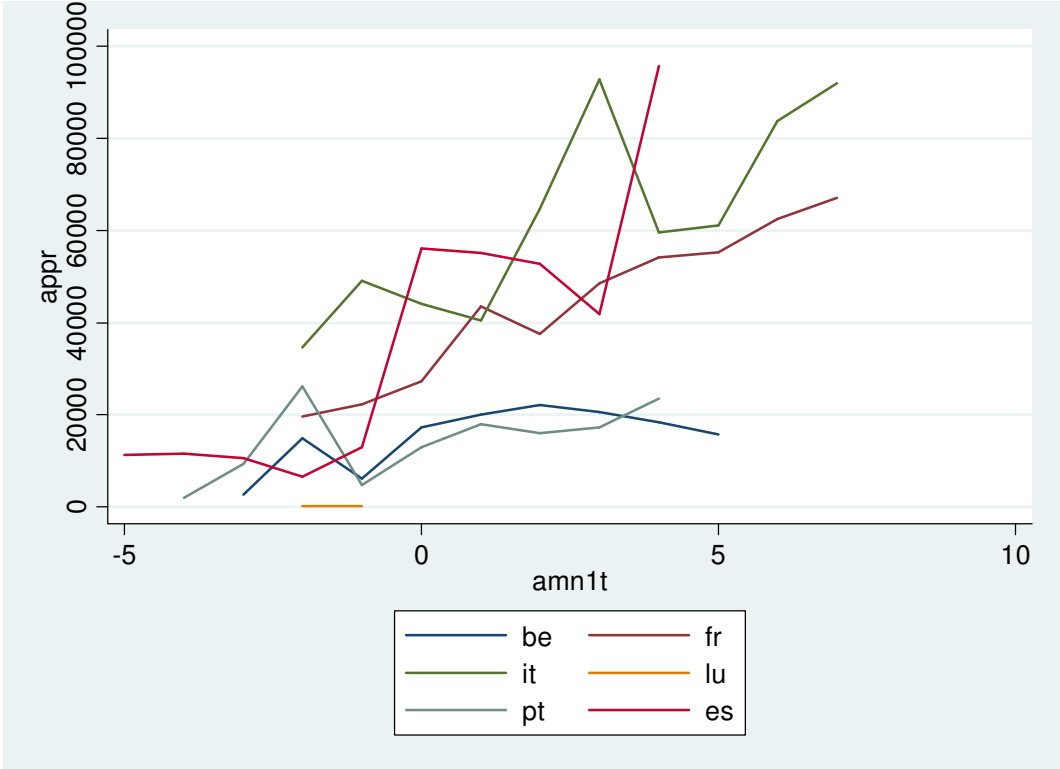
Only Italy, Spain, and Portugal carried out a second amnesty during the period under investigation. The result is similar to that of the first amnesty because the numbers of apprehensions also have an upward slope. However, in the case of Spain and Portugal, there is only one year after the second amnesty, so no significant conclusions can be reached from this data. Therefore, second amnesties are not taken into account in this investigation. The decisive point is

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<sup>40</sup> Espenshade (1995) discusses under which circumstances it is possible to use US border apprehension data as an indicator for illegal immigration. The size of illegal immigration is roughly 2.2 times the number of apprehensions at borders.

the first amnesty, in which countries acquire the reputation of being prone to legalising illegal immigrants.

Figure 1: Apprehensions before and after legalisation campaigns



I proceed as follows in this chapter: First, I will give an overview of research on illegal immigration in Europe and comparable topics. Papers that investigated the consequences of tax amnesties in particular provide some insight into the theory and the design of studies on amnesty effects in general. Theoretical reflections of this literature also contribute to the second section, which describes effects one would expect from legalisation campaigns. There are contrary processes that may lead to both an increase and a decrease in the number of illegal aliens, while most theoretical models predict an increasing effect in the long run. The Cirefi data are described in the following section and, lastly, the empirical strategy is described and the results are presented before I conclude with recommendations for immigration policy in Europe.



## 2. State of research

There are very few studies that investigate the effects of amnesties in a concise manner, although this question is a salient topic in political discussions (Papademetriou et al. 2004: 1). This unsatisfactory situation is certainly a result of the lack of data, which in turn stems from the fact that illegal immigration cannot be observed directly. This situation makes it necessary to switch to comparable quantitative indicators that are associated with the size of illegal flows and could help to augment the knowledge on the number of illegal immigrants in European countries. Until a few years ago, the European Commission did not publish the data it collected on illegal immigration (see section 4). As a result, the economic literature on immigration amnesties concentrates on theoretical modelling or, if it is empirical, concerns the US context. In addition to these works by economists, there are no studies from other disciplines.<sup>41</sup>

In contrast to the pessimistic views of some politicians on large-scale legalisation, economists have a more nuanced understanding of amnesties. All the following theoretical papers assume that amnesties per se make illegal immigration worthwhile for larger groups of potential illegal immigrants. It can be in the state's interest to attract illegal immigrants, e.g. because of labour shortages. Accordingly, Chau (2001) hints at the relationship between employer sanctions and amnesties. She wants to explain why states organise amnesties and at the same time introduce measures against illegal immigration, actions which seems to be contradictory at first glance.<sup>42</sup> The question is how the state succeeds in maintaining its credibility in immigration policies under such circumstances. Amnesties are useful to this end because they can be employed to diminish the negative effects of deterrent measures such as internal controls and to make controls of employers cheaper and thus easier to legitimise. Legalising illegal immigrants alleviates the problem of a shrinking labour force in certain industries because of internal controls that prevent potential illegal immigrants from entering the country and employers from hiring them. Tighter immigration policies are thus possible without harming the economy because the supply of immigrant work is secured by issuing (temporary) residence permits to (former) illegal aliens. The control authorities, on the other hand, are more likely to keep up their control measures without political interference. At the same time, amnesties make internal control efforts more credible because they increase the number of illegal

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<sup>41</sup> Finotelli (2006), for example, deals with the role of amnesties in Italian immigration policy but does not touch on the question of whether this instrument increases illegal immigration.

<sup>42</sup> This behavior can indeed be observed in reality. France increased sanctions for employers who employ illegal immigrants in 1981 under the Socialist government (Wihtol de Wenden 1987: 214) which shortly before started to prepare a sweeping amnesty.

immigrants in expectation of legalisation measures (*ibid.*, 626). The state reacts to this development by implementing and maintaining controls because the increase in illegal immigration leads to higher savings in social costs, which make all the efforts worthwhile. The state binds itself by making controls of employers rewarding so that the announcement of employer sanctions is credible.<sup>43</sup> In sum, Chau also supposes that amnesties attract illegal immigrants because they hope to benefit from legalisation. But in a mix with other control instruments, especially employer sanctions, they can be useful and lead to a more consistent immigration policy that finally reduces illegal immigration. This reduction takes effect only in the medium or long term.

Epstein and Weiss (2001: 26) take the same line, although they do not try to explain empirically observable public policies with regard to illegal immigration and legalisation as Chau does, but propose different sorts of amnesties that a state has to choose from according to its political aims. If a country only wants to get rid of illegal immigrants, it should launch a limited amnesty program and grant a temporary residence permit that forces the illegal workers to leave the country after it expires. The willingness to return could be ensured if the applicants are required to post bail, which is only reimbursed if they leave the country. If a country intends to reduce the presence of illegal foreigners to zero, it must legalise all aliens without residence permits. If the state, however, wants to attract only “useful” immigrants, it should link legalisation with appropriate preconditions. Such conditions often use a minimum period of residence during which applicants must have lived in the host country. As a consequence, the attraction effect of legalisation campaigns becomes smaller compared to amnesties without prerequisites. European countries usually take into account this effect and demand certain conditions, especially a certain period of residence and often employment as well. According to this theory, one would expect a limited pull effect of legalisation in Europe. Greece, which carried out catch-all amnesties, obviously was not relieved of the problem of illegal immigration, although the data are not very reliable in this case (data for Greece has therefore been partially omitted from this study).

In contrast to Epstein and Weiss (2001), Karlson and Katz (2003) stress the state’s interest in illegal immigration. They assume “that a rich country may wish to attract cheap foreign workers to work in its low productivity sector, where, owing to the expectations of welfare, unemployment benefits, or a minimum wage by legal residents, employers may not be able to hire legal workers” (*ibid.*, 232). Illegal immigrants are a substitute for a lack of legal

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<sup>43</sup> The finding of the German Federal Auditing Court (Bundesrechnungshof 2008) that the gains from labour inspections were largely exaggerated calls the rationality of state authorities into question.

workers and are therefore tolerated by the host country because they fill the need for labour. The authors see amnesties as an additional incentive offered to low-paid illegal immigrants. Border controls are used to separate suitable from unsuitable workers because they make the individual migration projects more expensive. Only those able to earn enough in the labour market can afford immigration to the host country. Therefore, a country willing to accept illegal immigrants because they are not subject to the high labour and social standards should carry out some border enforcement for deterring low-skilled workers and implement legalisation as an incentive for high-skilled immigrants who will not be a burden on the public budget. Amnesties are an incentive that stimulate certain forms of illegal immigration. However, they must not necessarily lead to higher net immigration because accompanying controls act as a deterrent for other potential immigrants. The sign of the net effect thus depends on the concrete form of the programme. In the same vein, Cox and Poser (2007) interpret amnesties as the conscious attempt of the state to direct illegal immigration according to its preferences. The essential feature of legalisation is their selection mechanism. The legislator defines certain criteria which are used to separate successful and suitable candidates for a residence permit. This second order design of amnesties (ibid., 819-831) contrasts *ex ante* strategies of selecting immigrants (like point systems in United States, Canada, or Australia). In their view, legalisation is an instrument to reach other policy goals and the pull effect they are triggering can even be positive.<sup>44</sup> This approach is never a topic in political debates, although some researchers suspect that illegal immigration is consciously tolerated to keep a pool of cheap labour available (e.g. Samers 2003: 557). This topic, however, is not the subject of this paper but it shows that illegal immigration may even be desired, and that amnesties can serve as a selection mechanism that offers the most suitable candidates a way into legality.

The theoretical studies presented here usually start from the assumption that amnesties attract illegal immigrants. They present models based on political economy and welfare deliberations. The existence of the pull effect is usually presupposed. Apart from these theoretical reflections, there are a handful of empirical studies that exclusively examine the amnesty that was carried out in the United States in 1986 through the Immigration Reform and Control Act (IRCA). Although the number of amnesties has been much higher in Europe<sup>45</sup>, there are no

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<sup>44</sup> Finotelli's (2006) argument resembles this position very much. She sees the legalisation practice in Italy as a sort of regular immigration opportunity in the absence of other migration channels. Therefore, amnesties fulfill the same purpose as asylum immigration in Germany. Kostakopoulou (2004: 43) and Castles and Davidson (2000) also assume that states willingly accept illegal immigration on the basis of economic reasons.

<sup>45</sup> There are also amnesties outside the US and Europe, e.g. in Latin America and Korea (see Sunderhaus 2006).

investigations covering this region, which is surely a result of a lack of qualitatively good data.

Orrenius and Zavodny (2003 and 2004) investigate the effect of the 1986 amnesty in the United States on future illegal immigration. They carry out a regression analysis using monthly data on border apprehension as a proxy variable for the number of illegal entrants at the US-Mexican border from 1969 to 1996. Surprisingly, the number of apprehensions did not rise during the filing period, although one would expect a rise in people trying to (fraudulently) benefit from the amnesty. Additionally, illegal immigration did not increase in the long run because the structure of apprehensions after the amnesty is not different from that before the IRCA programme. That also means that IRCA has not achieved its goal of reducing illegal immigration (Orrenius and Zavodny 2003). Orrenius and Zavodny (2004: 16-21) also point to the fact that the IRCA legalisation programme was inundated by applications consisting of false papers (73%) which, moreover, were largely accepted (90% of all applications were decided upon positively). Besides that, the IRCA programme was not accompanied by a sufficient increase in enforcement measures such as border patrols and labour inspection.

Woodrow and Passel (1990) largely confirm this finding. They estimate the numbers and, at least partially, the flows of illegal immigrants to the United States before and after IRCA using the Current Population Survey (CPS). They (ibid., 66) found “no significant difference in the average annual population change attributable to undocumented immigration for the 1986-88 period as compared to the 1979-86 or 1980-86 periods”. However, they suggest that the composition of the flow of illegal immigrants changed slightly after 1986, including more women and fewer Mexicans.

The legalisation carried out through IRCA has increased the inflow of migrants, reducing, however, the total share of undocumented immigrants in the United States (Cornelius 1989). Additionally, the rate of women and children increased because of IRCA and shifted immigration patterns from temporary to permanent settlement. New immigration was triggered by family reunification of an increased number of foreigners residing legally in the United States (Baker 1997). Other subsequent research was dedicated to the socio-economic status of legalised aliens (Baker 1997; Chiswick and Miller 1999). The effect of legalisation on earnings and occupational position of formerly illegal immigrants is the only quantitative research question examined concerning legalisation campaigns in Europe (e.g. Karaboytcheva 2006).

In sum, there is only one study that quantitatively investigates the effect of amnesties on future illegal immigration (Orrenius and Zavodny 2003), while a comparable study for the European region does not exist.

### **3. Theory and hypothesis generating**

#### **3.1 Aspects leading to a decrease of illegal immigration**

Illegal immigrants may attempt to have their family members join them illegally in the host country. There is empirical evidence that a part of the illegal population in Western countries consists of families (parents with children) (Cyrus 2004: 4). A male person who fulfils the legalisation criteria because he is working receives a residence permit and may be allowed (sometimes only in the long run) to officially invite his or her family so that his or her dependants come out of illegality or are brought in legally (and thus not illegally) via the official family reunification process. This phenomenon either actually increases legal immigration (leading to a net rise of immigration) or seemingly does so (substituting illegal immigration with legal immigration), but in any case reduces the presence of illegal foreigners in the host country. In this scenario, the increase in the share legal immigrants have in the overall number of immigrants leads to more opportunities for future legal immigration, so the illegal form becomes less relevant for potential immigrants. Because chain immigration is one of the most important methods of legal and illegal immigration (see section 3.3), this argument may have some practical scope. The immediate effect of a smaller number of foreigners residing illegally (“wiping the state clean”, Chiswick 1988: 101) is followed by a medium- and long-term effect of smaller illegal flows.

#### **3.2 Aspects leading to an increase in illegal immigration**

Amnesties are sometimes part of a larger immigration reform package that also includes controls and law enforcement measures. The legalisation of a large number of illegal immigrants intends to create a new *tabula rasa* situation for the implementation of the restrictive part of the legislation. Therefore, amnesties are often announced when a new government enters office and launches its new policies regarding immigration (e.g. France 1997, Spain 2004, Italy 2002). There is usually high immigration pressure, with many people crossing the border illegally or protest actions that are accompanied by extensive media coverage (Laubenthal 2007: 62; Timera 1997: 104); otherwise, a government would not make use of the ex-

traordinary measure of granting amnesties. Legalising illegal immigrants means declaring the failure of the immigration rules as stipulated by the law and signals to possible emigrants in the sending countries that the host country is willing to seek solutions outside the previous application of law if the pressure is high enough. They may become convinced that these events could recur if pressure increases, i.e. if illegal immigration rises again. Because “regularisation is the usual focus of their dreams” (Gibney 2000: 20), citizens of a sending country may want to migrate to a country that has legalised migrants in the past in anticipation of a new amnesty for illegal immigrants (Chiswick 2001: 81). Legalisation gives illegal immigrants the chance to find work in the formal economy, with the advantage of guaranteed minimum wages, periods of cancellation, and social security schemes. Illegal immigrants, however, are exposed to exploitation of their situation because they cannot defend themselves and threaten their employer with legal action.<sup>46</sup> The most serious consequence is that employers defer payments or do not pay the promised remuneration at all (Alt 2004).<sup>47</sup> The expectation of legalisation is especially nurtured if the host country has implemented more than one amnesty campaign and the pattern of legalisation gives rise to the supposition that the chain of amnesties will not break off,<sup>48</sup> even despite the fact that the respective government announces every amnesty to be the last one (Kömür w. y.: 39). It would then make sense to assume that illegal immigration increases in expectation of the coming amnesty the longer it has been since the last legalisation campaign, at least until the point where illegal immigration falls again because the initial hope proved to be disappointing or a new amnesty has recently been carried out. It is often suspected that illegal immigration increases during an amnesty campaign because immigrants want to participate fraudulently in the programme (Perotti 1994: 38).

But even if the total amount of illegal immigration into Europe or North America has not changed, since no potential illegal immigrant decides to leave his or her country just because of an (expected) amnesty, legalisation could have an effect on the decision to migrate. Potential illegal immigrants could choose the country that (regularly) implements legalisation or that the immigrants suppose will carry out amnesties in the near future. Therefore, amnesties may change the distribution of illegal immigration across Europe or North America even if the total inflow is not changed. Immigrants could also prefer certain countries that were not

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<sup>46</sup> Usually, they are allowed to take legal action but that would reveal their illegal status and is therefore seldom used by illegal immigrants.

<sup>47</sup> There are hints that sometimes illegal immigrants are able to force the payment of outstanding wages by commissioning informal debt collectors, physical force, or in very rare circumstances even strikes (Alt 2004).

<sup>48</sup> For the Spanish case, see Gómez and Becerra (2005: 90).

popular destination countries until they started to conduct amnesties: Even if new immigration is not triggered by amnesties, it could change the attractiveness of countries in the target region: More illegal immigrants may opt for country *A* although job opportunities are somewhat worse than in country *B* because they are willing to invest lost wages in future legalisation if the latter's probability is sufficiently high. Therefore, existing flows of immigration could be directed towards other host countries that would then face an increase in illegal immigration.

Additionally, there may be processes that exhibit their effects only in the long run (Brochmann 1999: 21): Generally speaking, a larger foreign population always means more opportunities for illegal immigration *ceteris paribus* because a larger number of legal foreigners involves larger ethnic networks that illegal immigrants have to rely on, at least during the first period of residency.<sup>49</sup> Sociological research has shown the paramount importance of ethnic kinship for illegal immigration because housing, jobs, and social contacts are found in the ethnic community before the immigrant may expand his or her contacts beyond this group (see the empirical sociological and ethnographic studies of Alt 1999, Anderson 1999 and 2003, Jordan and Düvell 2002). This finding must not necessarily contradict the previous assumption: A higher proportion of legal immigration (the total number of immigrants being constant) may lead to a decrease of illegal immigration, but a higher total number of legal (and illegal) immigrants increases illegal immigration.<sup>50</sup>

### **3.3 Other factors leading to illegal immigration**

Apart from amnesties, there are several other factors that attract illegal immigrants and may be important in order to understand illegal immigration. Among them are employment opportunities, ethnic networks, and internal and external controls. These descriptive variables are derived from immigration theories and empirical findings in the existing literature on (illegal) immigration. There are several well-known theories on what causes people to move from their native country to another country (see the summaries in Faist 2000 and Düvell 2006). The individual decision may be influenced by a variety of reasons: financial incentives, repression in the sending country, love, etc. Modern theories of migration each propose a single factor or a bundle of related factors that explain the aggregated behaviour of migrants.

Both macro-level and micro-level theories of immigration concentrate on economic factors, which act as an incentive for people to leave their country. The standard micro-

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<sup>49</sup> The Spanish amnesty in 2005 „makes it easier to be joined by other family members” (Miguélez and Recio 2008: 593). These family members who join their relatives in Spain have to take the same illegal way.

<sup>50</sup> One example is the practice of “lending” someone one’s own passport which is used by that person to pass the entry controls (Anderson 1999: 41).

economic models assume that people are encouraged to move if the difference in the expected earnings in the target country and the country of origin exceed moving costs (Faist 2000: 36). Because there are no micro data on illegal immigration, aggregated macro data must be used to trace the consequences of between-countries differences as proposed by macro-level theories. There is a lot to be said for the ameliorating effect of amnesties, but all of these arguments become meaningless in view of the paramount importance of work for illegal immigrants (Worbs, Wolf, and Schimany 2005: 20). Almost every illegal immigrant is dependent on having a job except for “illegal family reunification”, in which the inviting person is in possession of a residence permit. This channel is supposedly narrower because most categories of immigrants are eligible to bring their families to their host country after a certain period of time. It is therefore very likely that the most important criterion for choosing a country is availability of jobs, not possible legalisation.

Because this study must rely on specific characteristics of receiving countries (it is not possible to break down the data into countries of origin), I concentrate on the variable that provides the greatest number of differences between the countries investigated and that is the crucial factor according to the neo-classical push/pull model in economics, namely the possibility to improve one’s economic situation. It is likely that the availability of jobs triggers illegal immigration, as discussed above (see Hanson and Spilimbergo 1999: 1354-5 for an empirical proof). The demand for labour is captured through the variation in total employment, as the usual conventions suggest (Clark, Hyson, and Cohen 2000: 378). Furthermore, the growth rate of the total economy is used both as an additional and a substitute variable.

Besides real demand for labour, researchers of illegal work and informal economy see state failure as the main economic reason why people decide not to offer their labour on the regular labour market and why employers resort to illegal labour (Schneider 2000; for illegal immigration see Straubhaar 2007). In the present context, the former aspect can be neglected because illegal immigrants usually do not have the alternative to find regular work. Taking into consideration the demand side, however, might shed some light on the informal economy and illegal immigrants’ opportunities of finding employment. The whole spectrum of labour market regulation is responsible for the increase in illegal employment. Taxes, contributions to social security schemes, and employment standards can make legal work expensive in comparison to informal work, so employers are willing to transfer work from the legal to the illegal sector. This argument involves two conclusions: first, countries whose labour market is more densely regulated face a larger informal sector than countries with more liberal regulation of the labour market. Second, when the labour market is more tightly regulated in the



course of time within a certain country, the informal sector gains ground compared to the formal sector.

In sum, this conclusion yields two connected hypotheses. Illegal immigration is more likely if the demand for labour is high and cannot be satisfied by the available supply of labour. Additionally, the higher the costs of legal work, the more labour of illegal immigrants is demanded. In both situations, illegal immigrants compete with “regular” illicit work. This fact is not taken into account here. Instead, I assume that causes of an increase in illegal labour in general also lead to an increase in the demand for labour of illegal immigrants. In reality, employment in the informal economy is quite common even for legal immigrants. Therefore, legalised immigrants lapse back into illegality because they are not able to prove legal employment after the period of examination and only find work in the informal sector (Baldwin-Edwards 1997: 508).

On the meso level, migration researchers have hinted at the importance of collective and social networks such as family ties or ethnic kinship. Foremost scholars of sociology (Massey 1987; Boyd 1989; Portes 1995) have argued that social networks are important for immigrants, especially for new ones who do not possess the necessary resources to cope independently with the circumstances in the receiving country. One of the concrete mechanisms that triggers immigration is the concept of social capital, i.e. “the capacity of individuals to command scarce resources by virtue of their membership in networks or broader social structures” (Portes 1995: 12). Thus, immigrants are able to find housing, jobs, medical treatment, and other necessary resources. This concept particularly applies to illegal immigrants who are more vulnerable than regular migrants and thus have to rely more on relatives or friends in their ethnic community (Cyrus 2004: no. 10). Not surprisingly, qualitative studies have highlighted the importance of anchor points in the receiving society. Because at least in the beginning jobs can only be found if a supportive network of family or ethnic community members exists (see above), the presence of these groups of people may be decisive too (Orrenius and Zavodny 2005: 217).

The third factor besides earning opportunities and networks is the level of deterrent measures, i.e. the extent of external and internal controls. Both affect immigrants’ prospects of finding work and the level of income they can expect to earn. As indicated in the introduction, control measures can be interpreted as selection mechanisms that make illegal immigration profitable only for higher-qualified people, who can expect to have higher incomes than low-qualified workers. Inhabitants of third countries are deterred from immigrating, albeit some to a higher degree than others.

The fear of police controls is a constant theme in sociological and ethnographic studies of illegal immigration (e.g. Jordan and Düvell 2002; Alt 2004; Stobbe 2000 and 2004; European Migration Network 2007: 17). Illegal immigrants adopt certain habits and strategies to circumvent detection such as strictly following all laws (no jaywalking, no fighting), maintaining a well-groomed appearance, and avoiding certain places (Stobbe 2004: 93). These strategies for making oneself invisible are reasonable with regard to most illegal immigrants because travel costs are high. To ensure that the investment of migrating to the host country pays for itself, a minimum period of stay is necessary, during which detection would mean failure of the whole operation. Secondly, detection usually leads to a ban on re-entry for several years, which heavily reduces the chance of illegal residence for people who are allowed to enter the country without a visa (for example Latin Americans) or who have a relatively good chance to get a visa (East Europeans).

For these reasons, the level of law enforcement plays a crucial role in the theoretical literature on amnesties and empirical studies of illegal immigration mentioned above. To sum up, it is clear that the level of deterrent measures also affects the number of illegal immigrants because of the reasons discussed above. These conclusions are also supported by the results of empirical investigations (for example Orrenius and Zavodny 2005: 217).

However, enforcement exerts two contrary effects: The number of apprehended immigrants could increase because a higher frequency of border and domestic controls and a higher number of control agents increases the probability of being detected. At the same time, this expansion of control measures will probably deter possible immigrants from entering the country illegally (Karlson and Katz 2003: 238; Chiswick 1988: 114-5; Hanson and Spilimbergo 1999), so country *A* with high enforcement has a lower rate of illegal immigration than a structurally similar country *B* with low enforcement. It is plausible that the deterring effect increases over time while apprehensions rise only temporarily and decrease again when the negative effect becomes stronger.

The prospect of legalisation is perhaps only in the lower rank of importance for foreigners' decision to immigrate. In any case, however, it distorts the overall distribution of illegal immigrants across Europe because amnesties offset, to a certain extent, the higher risk of becoming unemployed, according to the elasticity of the utility derived from legalisation with regard to the utility derived from income through work.

#### 4. Hypothesis and operationalisation

With these theoretical reflections in mind, one should assume that legalisation campaigns increase illegal immigration because they lead potential immigrants to expect that they will benefit from future amnesties. This hypothesis can be examined using data from the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (Cirefi) of the European Union. The Cirefi is a network of immigration and law enforcement experts of all member states of the European Union that was established by the Council of the European Union on 1 December 1992. Since 1994, its tasks consist of collecting information on (Council of the European Union 1996: 50):

- legal immigration
- illegal immigration and unlawful residence
- the entry of aliens through facilitator networks
- the use of false or falsified documents
- measures taken by competent authorities, in the form of statistics, in order to draw up regular situation reports.

Data on these topics are collected at monthly meetings of Cirefi members. Therefore, there are time series of three variables: (internal) apprehensions, (border) refusals, and removals of aliens. These variables are available for each country but there are different starting points since not all countries were able to provide data in the initial years.

Which of these indicators is best suitable as a proxy variable for the number of illegal aliens present in the country or the flow of illegal aliens? The removal variable is not appropriate because not only foreigners who have resided illegally in the country (in the strict sense) are deported but also foreigners who have committed a criminal offence or did not leave the country voluntarily after their residence permit expired. Even if an illegal immigrant has been apprehended, he or she may not be removed immediately if he or she lodges an appeal against his or her order of expulsion, his or her country of origin does not cooperate in issuing travel documents to him or her, or he or she simply does not disclose his or her identity. Removals are therefore not necessarily correlated with the number of illegal immigrants. Furthermore, the amount of (forced) removals seems to be dependent on political trends.<sup>51</sup>

The variable “refusals of entry” comes closer to a proxy for illegal immigration. It is intended to measure the inflow of illegal aliens (in contrast to the stock of illegal aliens). However, there are a number of problems concerning this indicator. First of all, not only illegal aliens are refused entry but also other groups of people: aliens who do not carry their trav-

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<sup>51</sup> See for example French President Nicolas Sarkozy’s target of 25,000 removals that the prefects had to achieve in 2006 (Comité interministériel de contrôle de l’immigration 2007: 153).

elling documents with them, e.g. their passport, or have erroneously tried to cross the intra-EU Schengen border without a visa<sup>52</sup>, or are denied entry in connection with political or societal events (demonstrations, sport events). Furthermore, people who are unable to state a reasonable explanation for why they want to enter the country or tourists without sufficient financial means do not necessarily have to be illegal immigrants.<sup>53</sup> Jandl and Kraler (2006: 273) suppose that the majority of people denied entry at state borders could easily have entered the country legally.<sup>54</sup>

The third indicator, apprehensions of illegal aliens, measures the presence of illegal aliens, whom the European Commission defines as follows:

“Persons other than those entitled under Community law who are officially found to be on the territory of a Member State having either entered:

- without being in possession of the requisite border documents (passport, residence permit, visa); or
- despite the fact that they were refused entry at the border; or
- despite the fact that they are subject to an entry or residence prohibition;

or, having been given permission to enter, have become liable to expulsion on the grounds of their remaining illegally” (Commission 2006: 28).

This indicator is affected by the problem that it consists of apprehended immigrants residing illegally in the host country, but at the same time includes in certain reporting countries people also apprehended at or near the border that they have crossed illegally or tried to do so (ibid., 275). This fact makes it difficult to compare the number of apprehensions across states because data for one country may contain a larger share of people apprehended at the border while the other state may have reported only “real” apprehensions of illegal immigrants. If this composition of the apprehension indicator does not change over time, this problem can be minimised somewhat by econometric means through assuming country-fixed effects. How-

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<sup>52</sup> For example foreigners residing in Germany with Schengen visas who wanted to travel to Poland or Czechoslovakia before 2007.

<sup>53</sup> A visa or the permission to enter a country without visa does not entail the *right* of entering the country. These requirements are only a necessary but not sufficient condition. The final decision is within the border officers’ discretion.

<sup>54</sup> The Austrian Ministry of the Interior breaks down the number of refused persons according to art. 52 Fremden-gesetz (aliens law) into the following categories (BMI 2005: 79):

Without documents	11,859
Ban of residence	1,336
Entry in SIS	8,346
Public security	4,568
Illegal employment	95
Trafficking in human beings	61
Means of subsistence	716
Financial offense	62
Total	27,043

(SIS: Schengen Information System)

ever, one must be aware of this restriction when analysing the results on the basis of this variable. In any case, it is the only option since other data are lacking. In spite of the problem that not all apprehended people are real illegal immigrants, the use of this variable probably constitutes a much smaller problem compared to the indicator of refusals (for an overview of all variables see table 1).

Operationalising the independent variables is problematic in certain respects, too. The demand for labour is measured as the change of total civilian employment and, alternatively, by the unemployment rate (the higher its value, the lower the demand for labour). This calculation requires the assumption that the employment of illegal immigrants increases when the legal workforce becomes scarce.

Table 1: Operationalisation of hypotheses

	Operationalisation	
<b>Dependent variable</b>		
	Number of apprehensions	APPR
<b>Independent variables</b>		
<i>Demand for employment</i>	Employment growth GDP growth (alternatively)	EMPL GROW
<i>Country size</i>	Size of population	POP
<i>Network effect</i>	Proportion of foreigners in total population in the previous year	FORL1
<i>Enforcement level</i>	Number of police officers	POL
<i>Amnesty effect</i>	Dichotomous variable: “1” post-amnesty period, “2” pre-amnesty period	AMN
<i>Labour regulation</i>	OECD index of labour market rigidity	REG

Figures on labour market regulation were used only for additional analyses because there are large gaps in the available data. The operationalisation of labour market regulation is difficult because of theoretical and practical reasons. There are various indicators with respect to labour market “tightness” in OECD countries. Many time series cannot be used because they do not cover the period of investigation in a sufficient manner. Botero et al. (2004), for example, compiled a very detailed cross-section data set on labour regulation in industrialised countries, which I cannot use either, because it is unlikely that this regulation remained constant during the ten years under investigation.

Besides these specialised and well-known indicators, policy advisory institutions also publish indexes that partially represent labour market regulation in the worldwide context: The World Economic Forum (Global Competitiveness Report), the World Bank (Doing Business), the Heritage Foundation (Index of Economic Freedom), the Fraser Institute (Economic Freedom of the World), the Institute for Management Development (World Competitiveness Yearbook), and the Institut der deutschen Wirtschaft (IW-Regulierungsindex) (see Enste and Hardege 2006). These indexes, however, are not fine enough to catch the differences among

EU countries, because they are calculated for world-wide comparisons, so the variation between most developed countries is close to zero, if the time series are long enough at all.

Empirical studies analysing the informal economy use more or less well-developed alternative indicators to take into account that a part of the economy shifts into the informal sector because of rigid labour market institutions. Bühn and Schneider (2009: 11) propose to use the total number of laws and regulations or the size of staff at regulatory agencies as indicators of labour market regulation. This indicator should be considered rather imprecise. In addition to these figures, they use the amount of wage subsidy benefits as an explanatory contextual variable. This number, however, represents the supply side of informal work and is therefore not useful for this study because the employment of illegal immigration depends on the demand for illegal work: Illegal immigrants do not decide to look for a job because legal employment does not pay off; quite the reverse, they are attracted by employment opportunities. Karabegović et al. (2004) include employment in the public sector as the percent of total employment to measure labour market regulation in North America and add minimum wage as a percent of per-capita GDP, unionised employment as a percent of total employment, and the Index of Flexibility in Labour Relations Law (derived from the index “Economic Freedom of the World” of the Fraser Institute).

The only time series applicable to this study is the OECD Employment Protection Legislation Index, which measures the regulation of mass dismissal, temporary work, and short-term work using 18 items. These data are available only up to 2003 and are thus included in a separate estimation with a reduced data set (see section 8). They can be used for attempts to measure labour market effects in a more realistic way. Although this data fits the theoretical assumptions better, it leads to a declining quality of the estimations because the data set is considerably reduced.

The OECD regulation index measures the degree of work contract regulation in the OECD countries (OECD 2004). It is made up of the strictness of regulation in several dimensions: individual dismissals of workers with regular contracts, temporary employment, and collective dismissals (in total 18 items). Each of these indicators consists of several sub-categories such as notification procedures, severance pay, compensation, trial period, etc. (see the full list in annex 9). This list concerns only work contracts and does not take into account

the level of taxes and contributions to social security schemes, which are also an important factor that affects the cost of official labour.<sup>55</sup>

Network effects are taken into consideration by the introduction of the share of immigrants living in each country in the year before.<sup>56</sup> It would be most exact to consider for every time period only those nationalities that, according to their relative strength, make up highest percentage of illegal immigrants in each country. In this way, the stock of Moroccans and Ecuadorians should be identified if these two nationalities comprise most of the annual contingent of illegal immigrants. Such a fine breakdown is illusory, however, because these data are not available. It is already impossible to find an internationally comparable statistic for the number of legal immigrants by nationality for the period under investigation.<sup>57</sup> Therefore, it was equally not possible to subtract the number of residents with EU nationality, who amount to a large share in the total of foreigners in some member states but are not a source of illegal immigration. The analysis has to rely on the total number of foreigners residing in the specific country, being well aware of this inaccuracy.

The best indicator for law enforcement would be the number of hours spent for control measures, were they available. However, there are no comparable statistics measuring such enforcement policies across Europe. The only available proxy is the number of police officers used for measuring the probability of being detected.<sup>58</sup> This number is somewhat problematic because the internal structure of functions cannot be represented by this simple indicator. The proportion of police officers who are actually given the task of controlling foreigners may alter from one country or from one year to the next. Political trends such as focussing on the fight against illegal immigration using higher enforcement endeavours by existing officers or tougher rules are not reflected in the data either. There are only small differences in time (with the exception of Italy). Using the number of police officers as a proxy for enforcement levels requires the preconditions that each officer invests a constant amount of effort to enforce the same rules of aliens law over the period of investigation.

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<sup>55</sup> Other factors that promote or reduce illegal work like honesty in tax matters are not directly observable. There are surveys which have asked citizens whether they made use of illegal work or were themselves active as illegal workers but these polls were conducted only irregularly so that I cannot consult them for this study.

<sup>56</sup> The time lag is necessary because the network effects need some time to unfold.

<sup>57</sup> The OECD has provided internationally comparable data since 2004 (see OECD 2008).

<sup>58</sup> As one can easily suspect, there are several incongruent national definitions of “police officers” and in some cases, border police are expressly excluded.

## 5. Descriptive results

Out of the fifteen member countries of the EU before the accession of the central, and eastern European and Mediterranean countries on 1 May 2004, seven countries carried out amnesty programmes during the timeframe under investigation.<sup>59</sup> These countries are Belgium, France, Greece, Italy, Luxemburg, Portugal, and Spain (see annex A). Applicants in most cases had to fulfil certain criteria such as a minimum period of residence in the host country and, sometimes, employment (in the shadow economy) to be eligible for legalisation. The number of legalised people was very high. Spain, for example, legalised over half a million people during its last amnesty in 2005. Greece, which was traditionally a country of immigration, legalised a very high number of illegal aliens in short intervals; in 1998 alone 590,000 people, or over five percent of its population, were legalised. The rate of approval is generally high, which hints at preconditions that are relatively easy to fulfil or to bypass by using false or falsified documents (Gallagher 2004: 75) and only superficial checks.

It is striking that most of the countries that implemented immigration amnesties are new targets of immigration. Most of them saw a large increase in immigration in the nineties. From the beginning, much of this new immigration has been illegal because immigration rules are not significantly more liberal than in the rest of Europe, although the practical implementation of visa rules, for example, may be subject to political discretion to a certain extent. France and Belgium are exceptions to this rule because they attracted high numbers of immigrants during and after *Les Trente Glorieuses*. All these countries also conducted the most extensive immigration legalisation campaigns both in absolute numbers and in the share of legalised people compared to the total number of immigrants. The legalisation campaigns in France and Belgium, in contrast, were carried out less often (twice and once, respectively<sup>60</sup>) and were somewhat smaller. Greece is partially excluded (from 1997 to 2001) from the sample because of data inconsistencies in the number of apprehended people: there is a sharp downturn in this indicator that cannot be explained by contextual factors. It is certainly a problem of statistical recording.

Figure 2 shows the number of apprehensions per country (without Denmark, Ireland, Luxemburg, and Finland, which have very low figures; see figure 1b). Germany had by far the highest number of apprehensions until 2002. Since then, the curve shows a downward

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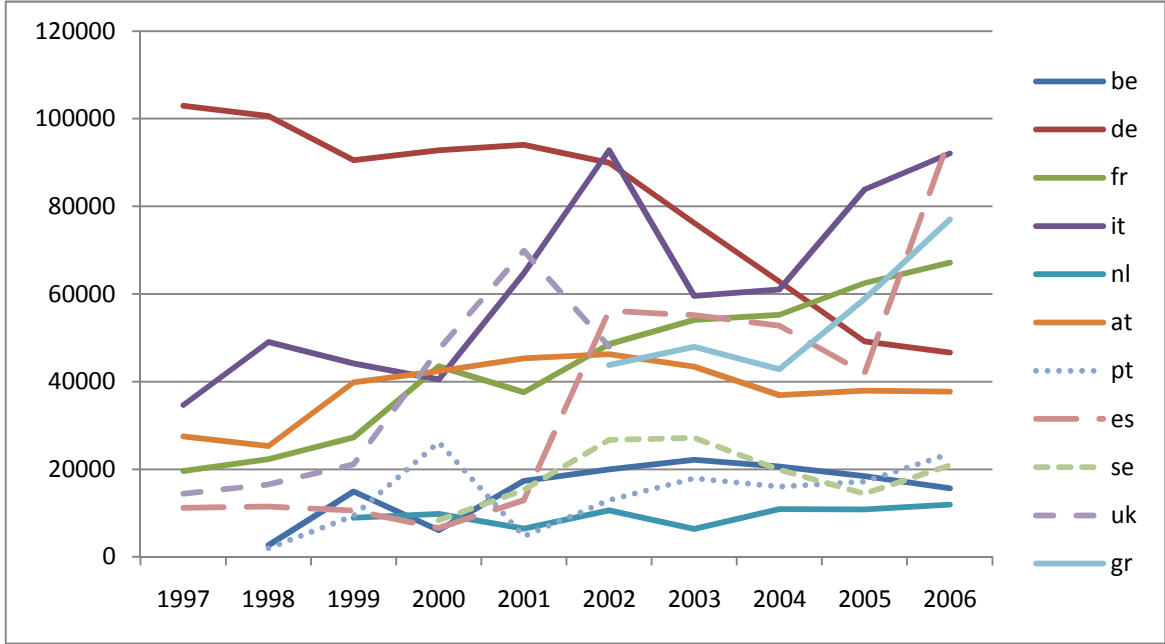
<sup>59</sup> Great Britain implemented a tiny legalisation of around 200 domestic workers in 1998. This legalisation is not taken into consideration because of its small size.

<sup>60</sup> There was a small legalization campaign in France in 1979 that concerned only a small number of Turkish workers (around 4,000, see Poelemans and de Sèze 2000).



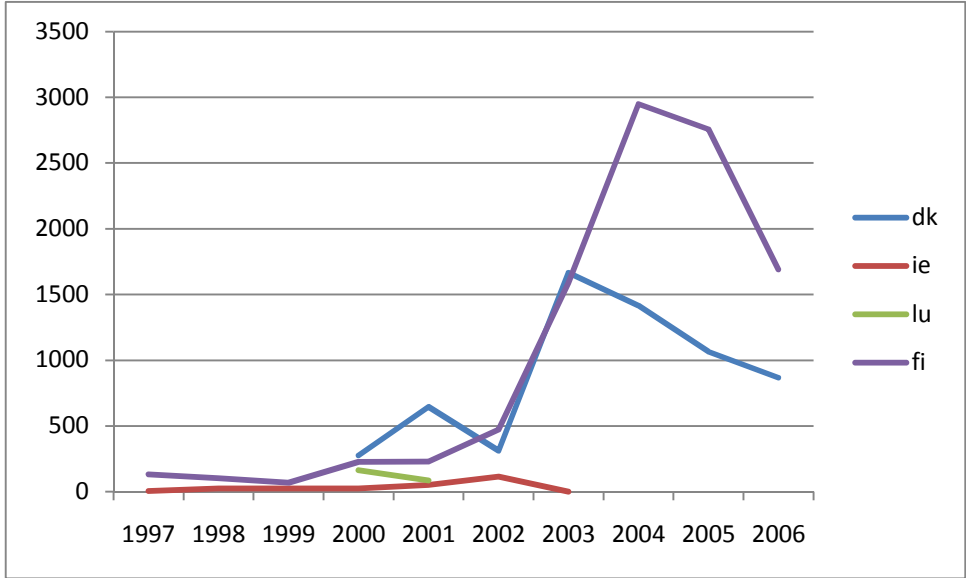
trend and was overtaken by other countries. Spain, Italy, and France have a strong upward tendency over the whole period of investigation, while apprehensions decreased in other countries like Sweden, Belgium, Austria, and the UK (until 2002) after a temporary maximum. The figures of Portugal and the Netherlands remained relatively constant over time.

Figure 2: Number of apprehensions in selected EU member states (1997-2006)



Source: Cirefi<sup>61</sup>

Figure 3: Number of apprehensions in Denmark, Ireland, and Luxemburg (1997-2006)



Source: Cirefi

<sup>61</sup> The Cirefi data from 2002 to 2005 are published in Commission of the EC (2006b: 29, table 1), data from 1997 to 2001 are published in GÉDAP and BIVS (2003: 232, table 5.2.2).

Figure 3 displays the development in countries with low numbers of apprehensions. It shows a high increase for Finland and Denmark starting in 2003. The apprehensions in Denmark fell again in the subsequent year but remained higher than in the period from 2000 to 2002. Ireland and Luxemburg have very few apprehensions, although the ratio of foreigners in Irish society has been steadily rising for a while.

Table 2 gives more detailed information on the number of apprehensions in the member states of the EU 15. There are on average 8.1 observations per country, with Luxemburg having only two observations as the minimum (six countries with the maximum of ten observations). The country with the highest mean of (absolute) apprehensions over the period under investigation is Germany (80,564), followed by Italy, France, and, surprisingly, Austria, where even more apprehensions are reported than in the UK and Spain. This number is probably a result of the geographical position of Austria at the external border of the EU 15, making it a target and transit country for several smuggling routes through eastern and south-eastern Europe (BMI 2007: 5). The fluctuation is generally high, most notably in the case of Spain, which experienced a steep rise in apprehensions during the period under investigation (see also figure 2). If one controls for the size of population and the size of the foreign population, the picture changes (columns 5 and 6 of table 1). Above all, Germany loses its leading position to Austria, which has on average over 47 apprehensions per 10,000 inhabitants and over 51 apprehensions per 1,000 foreigners residing legally in the country. It is also worth mentioning that the smaller countries in general move upwards. With regard to apprehensions controlled for population, Sweden, Belgium, and Portugal follow Austria. Only then do the larger states of Italy, Germany, Spain, and France follow (5<sup>th</sup> to 8<sup>th</sup> position).

Concerning employment, Ireland and Spain have seen the largest growth rates. Finland, Luxemburg, the Netherlands, and Portugal also have a quickly growing employed population, while the UK, Sweden, and Germany are the bottom. The growth rates of the BIP in each country resemble this in broad terms.

The number of police officers per 1,000 inhabitants varies strongly across countries but almost not across time, with the notable exception of Italy, whose police staff increased by 18 percent from 2002 to 2003<sup>62</sup>. The Nordic countries have the lowest number of police officers; there are, for example, only 1.6 officers per 1,000 inhabitants in Finland. The Netherlands follow the Scandinavian countries closely, while the UK, Luxemburg, and Germany are in a middle position, ranging from 2.6 to 3.0 police officers. Austria, Belgium, France, Ire-

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<sup>62</sup> It was not possible to find out whether this is a statistical effect.

land, and all Southern European countries employed more than 3 policemen per 1,000 inhabitants.

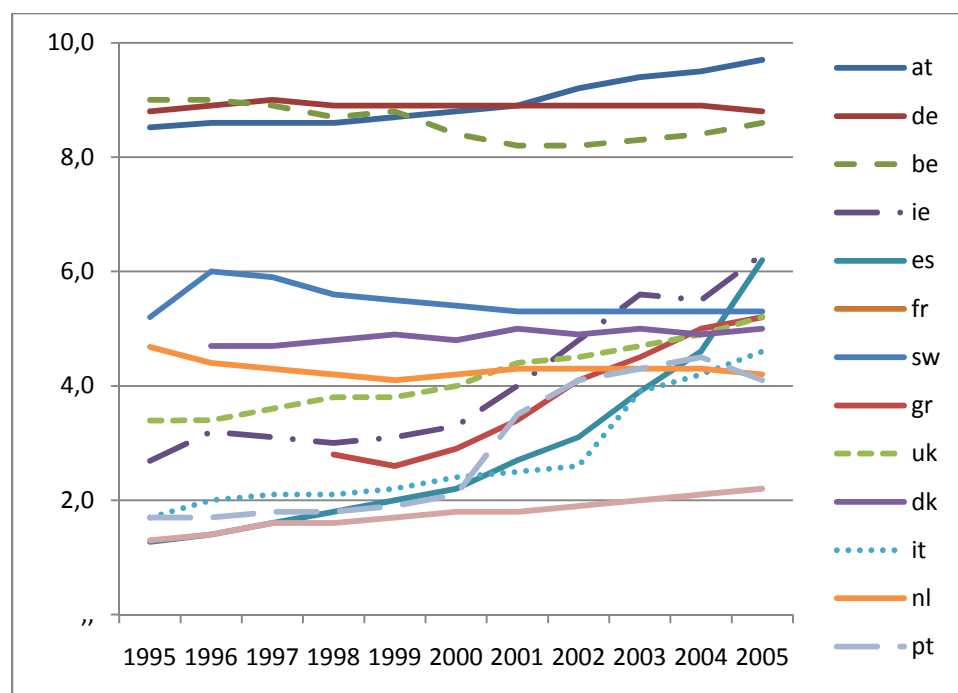
Table 2: Description of variables

country	Mean apprehensions	Employment growth % <sup>a</sup>		BIP growth % <sup>a</sup>		Appr. per 10,000 inhabit. <sup>a</sup>		Appr. per 1,000 foreigners <sup>a</sup>		Policemen per 1,000 inhabit. <sup>a</sup>
			( )		( )		( )		( )	
de	80,564	0.48	(14)	1.48	(13)	10.4	(6)	11.1	(10)	2.98
it	62,227	1.36	(7)	1.41	(14)	10.8	(5)	36.6	(4)	5.07
fr	43,778	1.35	(8)	2.31	(8)	7.3	(8)	15.1	(7)	3.89
at	38,252	0.85	(11)	2.26	(10)	47.3	(1)	51.9	(1)	3.37
uk	36,218	0.76	(12)	2.86	(6)	6.1	(9)	15.0	(8)	2.60
es	35,465	4.45	(2)	3.83	(3)	8.4	(7)	20.8	(5)	4.56
se	18,963	1.07	(10)	3.22	(5)	21.1	(2)	39.7	(3)	1.85
be	15,312	1.20	(9)	2.31	(8)	14.8	(3)	17.5	(6)	3.59
pt	14,427	1.56	(6)	2.22	(11)	13.9	(4)	47.7	(2)	4.57
nl	9,480	1.68	(5)	2.58	(7)	5.9	(10)	13.8	(9)	2.16
fi	1,022	1.72	(3)	3.78	(4)	2.0	(12)	9.4	(11)	1.57
dk	892	0.68	(13)	2.18	(12)	1.7	(13)	3.3	(12)	1.91
lu	125	1.70	(4)	5.39	(2)	2.8	(11)	0.8	(13)	2.82
ie	41	4.56	(1)	7.24	(1)	0.1	(14)	0.3	(14)	3.02
avrg	25,483	1.65		3.12		18.0		48.2		3.23

<sup>a</sup> Position in each second column (in brackets)

Source: Eurostat

Figure 4: Proportion of foreigners (without Luxembourg)



Source: Eurostat.

Countries with a higher percentage of aliens are more prone to illegal immigration than those with a low proportion of foreign population because of network effects (see section 3.3). Austria, Germany, and Belgium have the highest proportion of foreigners. However, one must bear in mind that this does not necessarily resemble the real size of the foreign community because many people acquire the nationality of their host country. Some states have comparatively liberal rules (e.g. France) while others are more reluctant to confer their nationality on immigrants (e.g. Austria and Germany until 1999). These divergent practices distort the exact share of foreigners in the total population. Therefore, this indicator tends to underestimate the number of foreigners in countries with a longer history of immigration, but is more adequate in the case of countries with newer immigration. Most countries show a rising trend, with very high growth rates in the case of Ireland, Italy, Spain, Greece, and Portugal. Ireland and Spain have also seen impressive economic development that boosted the demand for labour (see above).

## **6. Multivariate model**

The basic idea of the multivariate model stems from studies on tax amnesties, which are naturally far more numerous than studies on immigration amnesties because of higher availability and quality of data and neater research questions. Some studies on this topic chose experiments to predict the behaviour of taxpayers. One example is Torgler and Schaltegger's study (2005), which compared tax compliance after the introduction of amnesties with and without discussion and/or voting on the amnesty. They introduce a dummy variable equal to  $1$  in the post-amnesty period and  $0$  otherwise, and measure its effect in a regression estimation. Because they also analyse the effects of repeated amnesties, they include a second dummy that is equal to  $1$  in the post-second-amnesty period and equal to  $0$  in the pre-amnesty period. Some amnesties were presented as linked to increased enforcement measures, so the experiment compared four distinct situations (combinations of amnesties with and without discussions and with and without higher enforcement). The authors found that only a discussion of the proposed amnesties increases the likelihood that participants of the experiment comply with their duty to pay taxes.

Fisher, Goddeeris, and Young (1989) similarly try to delimit the group of people who are more likely to refuse their participation in a tax amnesty. According to their model, those

who evade more taxes take part less often in amnesties because they pay higher marginal participation costs.

Luitel and Sobel (2007) do not generate experimental data but analyse a data set of tax amnesties in all US states from 1980 to 2002. The variable to be explained is the (logged) state tax revenue, which depends on a number of control variables and the amnesties in each state. In addition to these differences, their estimation model resembles Torgler and Schaltegger's in how they capture the effect of the amnesty. The first amnesty variable is a dummy equal to 1 during the period when the amnesty is active. The second dummy variable equals 0 during the period before the amnesty was carried out and 1 after the amnesty period ended. The first variable captures the short-term effect of revenues from revealed taxes while the second variable measures the long-term negative effect of decreasing reliability of the tax enforcement system or the positive effect of the increasing number of tax payers who reverted to the tax system. These two variables are introduced for each amnesty separately in case there are several amnesties in one state. The results indicate that repeated amnesties lessen short-run revenue and increase losses because of disincentives for long-run tax compliance. This outcome was predicted by Stella (1989), who comes to the same negative conclusion but only because short-term revenues will become insignificant in the long run because of the long-term effect of deteriorating tax compliance.

Alm and Beck (1993) investigate only monthly data from 1980 to 1989 of a single state (Colorado), where an amnesty was carried out in autumn 1985. They conduct two different regressions for the periods before and after the amnesty and compare the coefficients using the Chow (1960) test. Because a significant difference in the two sub-periods is not demonstrated, the authors conclude that the amnesty did not have an effect on tax compliance.

Such a comparison of pre-amnesty and post-amnesty periods by separated estimations is not possible in this study because of the small number of observations. Instead, I follow the combined Luitel/Sobel and Torgler/Schaltegger approach and include a dummy variable for each legalisation campaign. Because the interval between each observation is much longer than in Luitel and Sobel's analysis, however, it is not possible to differentiate between short-term and long-term effects.<sup>63</sup> Therefore, the amnesty dummy variable is coded equal to 1 beginning in the year after the amnesty was carried out and 0 during and before the year when the amnesty was active. In this vein, a conservative strategy is used that avoids counting illegal immigrants who arrive during the campaign with intent to participate fraudulently in the programme. This group of people is not attracted to the country because of the expectation of

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<sup>63</sup> Because monthly data are not published on account of security concerns, I must use yearly data.

future legalisation. The registration for the amnesties is usually open only during a limited time, in most cases several weeks or a few months. Even then, the next year is the first coded  $I$ .

Beyond that, I include the above-mentioned control variables, which may have an effect on illegal immigration measured in the form of apprehensions of (mostly) illegal immigrants. To capture time-effects, dummy variables for every year are used, 2006 being the reference category.

The estimation function that must be chosen for this type of data is panel regression with fixed effects. It controls for omitted variable bias, which changes across states but does not vary over time. This control is necessary because there is much variance across states with regard to apprehension practices and with regard to factors promoting or restricting immigration, so it is highly likely that there are unobserved variables. Thus, the estimation equation is designed as follows (see Stock and Watson 2007: 357):

$$Y_{it} = \beta_1 X_{it} + \alpha_i + u_{it}$$

with different intercepts  $\alpha$  in each country  $I$ , so that

$$\alpha_i = \beta_0 + \beta_2 Z_i.$$

Apart from the observed variables  $X_i$ , which vary with time  $t$ , the predicted value  $Y_i$  is dependent on a country-specific intercept. This intercept is itself influenced by the unobserved variable  $Z_i$  that is constant over time but not across countries. The coefficients  $\beta_0$  and  $\beta_2$  (without country-index) indicate that the effect of the unobserved variable  $Z_i$  on  $Y_{it}$  is assumed to be equal in all countries (but not the value of  $Z$ , of course).

Because panel data suffer very often from typical flaws such as autocorrelation, I use the test for serial correlation of panel data proposed by Wooldridge (2002: 282-3) and implemented into Stata by Drukker (2003). Wooldridge conceives the right side of the equation as the sum of (among others) fully variable independent variables and country-specific variables:

$$Y_{it} = \alpha_i + X_{it}\beta_1 + Z_i\beta_2 + \mu_i + \varepsilon_{it} \text{ with } i \in \{1, 2, \dots, N\}, t \in \{1, 2, \dots, T_i\}$$

is the standard linear model with  $X_{it}$  being the vector of independent variables, which change over time, and  $Z_i$  being a vector of variables constant over time.  $\mu_i$  is the effect of the individual level and  $\varepsilon_{it}$  the error term (and  $\alpha_i$  an unobserved effect). The test is constructed on the basis of the residuals from a regression of first differences. This construction leads to the following equation, in which individual and time-invariant effects disappeared because of the subtraction:

$$Y_{it} - Y_{it-1} = (X_{it} - X_{it-1})\beta_1 + \varepsilon_{it} - \varepsilon_{it-1}$$

or

$$\Delta Y_{it} = \Delta X_{it}\beta_1 + \Delta \varepsilon_{it}$$

The estimated error terms  $\hat{\varepsilon}_{it}$  are regressed to see whether they are a function of the error terms of the previous time period  $\hat{\varepsilon}_{i, t-1}$  multiplied with the correlation factor  $\hat{\rho}_1$  and complemented by an error term:

$$\hat{\varepsilon}_{it} = \hat{\rho}_1 \hat{\varepsilon}_{i, t-1} + \varepsilon_{it}, t = 3, 4, \dots, T; i = 1, 2, \dots, N$$

If the  $\varepsilon_{it}$  are not serially correlated, their correlation  $\text{Corr}(\Delta \varepsilon_{it}, \Delta \varepsilon_{it-1})$  should equal -.5 (Wooldridge 2002: 283), which can be tested using the  $t$  statistics. Applying this procedure to the data reveals that there is autocorrelation, so alternative estimators are necessary (annex B).

Furthermore, the null hypothesis of homoskedastic panels is tested using a modified Wald statistic (xttest3 command in Stata; see annex C).<sup>64</sup> Cross-unit correlation is not expected because the existence of omitted variables that distort the standard errors across countries is very unlikely. The usual Breusch–Pagan test for cross-unit correlation (xttest2 routine in Stata) that would apply here cannot be employed because of too few common observations. In sum, the data suffer from heteroskedasticity and temporal autocorrelation, so a HAC estimator is necessary.

Furthermore, I control for normality of errors to guarantee reliable hypothesis testing (although the coefficients of the variables would still be true irrespective of the lack of normality). The Skewness and kurtosis test for normality (D'Agostino, Balanger, and D'Agostino 1980) indicates that the error terms are not normally distributed (annex D) if the raw data are used. Thus, it is necessary to exclude some outliers that certainly result from unstable reporting practices (especially Finland). Then, the error terms diagnostics provide satisfactory results (annex E). However, the first two specifications without logarithms do not pass the test. If one looks at the residuals of these estimations plotted against the normal distribution, the differences are not very large compared with the other models (annex F).

The main option that must be chosen in presence of serial correlation of the error terms are generalised least squares (GLS) (Studenmund 2006: 331). This method is described briefly in the following summary:

The equation with first-order correlation

$$(1) \quad Y_t = \beta_0 + \beta_1 X_{1t} + \varepsilon_t$$

can be written as

$$(2) \quad Y_t = \beta_0 + \beta_1 X_{1t} + \rho \varepsilon_{t-1} + u_t$$

because

$$(2a)$$

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<sup>64</sup> Because they are more common than the test for autocorrelation proposed by Wooldridge, I do not explain their mechanism.

$$\varepsilon_t = \rho\varepsilon_{t-1} + u_t.$$

The original error term  $\varepsilon_t$  is serially correlated and can be written in the form of the error in the prior period multiplied by the correlation coefficient  $\rho$  plus an uncorrelated error term  $u$  (cf. Wooldridge's test for serial correlation). The problematic part of this equation is  $\rho\varepsilon_{t-1}$ , i.e. the serially correlated error term. In order to rid the equation from this term, one has to multiply by  $\rho$  and lag the new equation by one time period:

$$(3) \quad \rho Y_{t-1} = \rho\beta_0 + \rho\beta_1 X_{1t-1} + \rho\varepsilon_{t-1} + u_t.$$

Subtracting this equation from the old equation we obtain an equation without the serially correlated error term:

$$(4) \quad Y_t - \rho Y_{t-1} = \beta_0(1 - \rho) + \beta_1(X_{1t} - \rho X_{1t-1}) + u_t.$$

This can also be written in the form

$$(5) \quad Y_t^* = \beta_0^* + \beta_1 X_{1t}^* + u_t$$

$$\text{with } Y_t^* = Y_t - \rho Y_{t-1}$$

$$X_{1t}^* = X_{1t} - \rho X_{1t-1}$$

$$\beta_0^* = \beta_0 - \rho\beta_0$$

which is the generalized least squares version of equation (2). It is not possible to estimate equation (5) and the coefficients  $\beta_0$ ,  $\beta_1$ , and  $\rho$  by using the standard OLS procedure because of non-linear associations (the betas are multiplied by  $\rho$ , see equation (4)). One way to estimate the unknown autocorrelation coefficient  $\rho$  is the Cochrane-Orcutt method also used here (Stock and Watson 2007: 614). First, a regression is carried out based on equation (1); then, the residuals of this estimation are entered into equation (2a). This combination produces an estimate of  $\rho$  which is again substituted into equation (4). The final coefficients are estimated using OLS.

Country-dummy variables have been included to account for country-fixed effects because the control mechanisms and the labour market situation are very different in each country. This formulation is also suggested by the Hausman test (see annex G). Different immigration structures and geographic positions, to mention only two aspects, are taken into account in this fashion. The dependant variable, apprehension, may also differ to some degree across the reporting units because the variable is built by each national body on a different basis (see description of the data set above).

The data exhibit more problems than those associated with serial correlation and heteroskedasticity. There is also the problem of multicollinearity. As shown in table 3, the size of the population and the number of foreigners and police officers are highly correlated with each other. The variance inflation factor (VIF) also reveals this relationship between the inde-



pendent variables (annex H). The main component of the VIF is the  $R^2$  value of the regression of one independent variable on the other independent variables:

$$VIF_j = 1/(1 - R_j^2)$$

The VIF is positively correlated with the  $R^2$  value, i.e. the higher the correlation between the specific variable and the other independent variables, the higher the inflation factor. As a result of multicollinearity, the precision of the prediction decreases because the variance of the regression coefficient increases by the VIF factor. These problems are not surprising because all of these variables are indicators of country size and thus measure to a certain degree the same fact: in larger countries (POP), there tend to be more foreigners (FOR) and police officers (POL). This problem has been solved by dividing the number of foreigners and police officers by the population (see next section).

Table 3: Correlation matrix POP, FORL1, POLABS

	POP	FORL1	POLABS
pop	1		
forl1	0.8579	1	
polabs	0.9291	0.6857	1

### 7. Results of multivariate models

The GLS estimations suffer from a technical problem: it deletes observations list-wise when one of the variables in the model has only one country-year observation per country. Because of that problem, many specifications are not possible. For example, there is only one observation for *FORL1* for France because there are no regular statistics on the number of foreigners in France (this information is acquired in the national census that is conducted every seven to eight years). There are two options in this case: dropping France as a whole or dropping *FORL1*. Because *FORL1* is highly correlated with others variables (see above), the second possibility is opted for this case. For the same reason, Luxemburg must be excluded from the sample, which is of no consequence given that this country reported the number of apprehensions only twice.

I estimated several specifications with the raw data and then re-calculated the regressions using the natural logarithm of the large number variables: apprehensions, population, foreigners, and police. In all specifications, *AMN* has a positive effect on the apprehension of

illegal immigrants, i.e. illegal immigration (see table 4). This effect is highly significant (one percent-level) in *GLS1* to *GLS3*. In *GLS4*, the variable is still significant at the five percent-level. As expected, illegal immigration also increases with the size of the country. However, this effect becomes insignificant if other predictors are included in the equation (*GLS2*). *FORL1* exerts a significant impact in all models except for *GLS2*. The result of *GLS3* suggests that the number of apprehensions rise by approximately 31 if the number of foreigners increases by 1,000 (i.e. 3,100 for 100,000 additional foreigners). This effect is somewhat smaller in the other specifications.

Table 4: Results (time and country dummies included)

Variable	GLS1	GLS2	GLS3	GLS4
AMN	8750***	8419***	10093***	6538**
	0,003	0,005	0,000	0,026
POP	0,01393***	0,00746	0,00464	0,00911
	0.000	0,121	0,415	0,103
FORL1		14,47	30,59***	24,02**
		0,118	0,006	0,015
POL			-0,3683**	-0,4069***
			0,050	0,005
EMPL				-15761
				0,771
cons	-783487***	-434422	-250776	-490664
	0.000	0,102	0,429	0,115

The variable *FORL1* proves to be significant only in the presence of *POL* (*GLS3* and 4). *FORL1* and *POL* retain their significant effects if the employment growth *EMPL* is inserted in the calculation. There are no signs, however, that *EMPL* has any impact on the dependent variable, while *POL* is influential. The coefficient of the latter variable has a negative sign, which shows an inverse relationship between illegal immigration and control: The higher the number of police officers, the lower illegal immigration. This result gives rise to the suspicion that illegal immigrants are deterred by the high level of control in certain countries. Low illegal immigration would be a consequence of high (internal or external) controls and a high level of controls is not a consequence of much illegal immigration, at least according to these results. Besides that, higher probability of detection does not lead to a net rise in apprehensions because the deterring effect is stronger.

Table 5: Correlation matrix FORQL1, POLQ

	FORQL1	POLQ
FORQL1	1	
POLQ	-0.1028	1

However, the interaction between *POP*, *FORLI*, and *POL* should be interpreted conservatively because of the problem of multicollinearity. The problematic correlation could be the reason why *POP* becomes insignificant as soon as *FORLI* and *POL* are included in the estimations. *AMN* is the variable whose influence is most stable throughout all specification independent of the method chosen. Because *POP*, *POL*, and *FORLI* are large numbers, it makes sense to replace them with the natural logarithm to see whether these results are immune to statistical outliers.

The best suited method of addressing the problem of multicollinearity is to divide the correlated variables by the size of population. This method reduces their multicollinear association drastically (see table 5). Because the population size is the denominator of *POL* and *FORQLI*, the dependent variable must also be divided by the size of population to capture the country-size effect.

Table 6: Results of adjusted estimations (with ratio to population; dependent variable: apprehensions per population; time and country dummies included)

Variable	GLS1	GLS2	GLS3	GLS4
AMN	.00124***	.00079**	.00077**	.00089**
	0.0000	0.0440	0.0483	0.0258
FORQL1		-.000034	-0.000005	.000158
		0.9105	0.9860	0.5756
POLQ			-.4826	-.0422
			0.5603	0.9583
EMPL				-.0144*
				0.0744
cons	.00033	.00075	.00196	.00017
	0.1603	0.5965	0.3927	0.9336

This procedure brings the analysis to a new level because the variables quota of foreigners and density of police controls prove to be irrelevant for the number of apprehended immigrants per population.

These final estimations suggest that amnesties indeed attract illegal immigration (table 6). Secondly, employment growth has a negative effect on illegal immigration. This latter

finding is surprising because it was supposed that illegal immigration is dependent on jobs, and the demand for labour increases illegal immigration. This effect seems to be overridden by other mechanisms. It is reasonable to suspect that the apprehension of illegal immigrants does not rise proportionally with the number of illegal entries in periods of increased demand for labour. Then, illegal immigration appears to be a smaller problem than in periods of aggravated shortcoming of jobs. The empirical picture of control policies in Spain and Italy (where illegal immigration is most visible in international comparison) support this interpretation. State authorities make sure that illegal residence and immigration is controlled and punished in a tighter manner when unemployment increases and illegal immigrants pose a serious problem for social peace. Conversely, the authorities are more permissive when the economy is dependent on cheap work force.

The amount of the coefficient suggests that apprehensions per population increase annually by .00124 apprehensions per population, i.e. 1,240 apprehensions per one million inhabitants, if an amnesty has been carried out in the past. If total employment grows by one percent, the number of apprehensions decreases by 14,400 apprehensions per 1 million inhabitants. The effect of employment change is very large, therefore, while amnesties exert comparably less influence on illegal immigration. Enforcement measures (*POL*) do not exert a significant influence. This result confirms Cornelius and Salehyan's (2007: 150) results, which conclude that political restrictions on immigration are far outweighed by economic and family-related incentives to migrate.

## **8. Sensibility tests**

Despite the fundamental lack of suitable measures of the informal economy, sensibility tests are conducted that take into account the incentives for illegal work. To this end, the change in employment (*EMPL*) is replaced by the growth rate (*GROW*). These first tests assume that an increase or decrease in the overall economic performance increases or decreases illegal employment. Thus, the growth rate is only an indication for an economy that has an equally increasing demand for labour. The results (see annex I) show that *GROW* is also significant in *GLS4*, with the original, non-transformed data indicating more apprehensions in case of economic growth. It is not significant in the case of the final specification, which must be given the preference for the reasons stated above. The reduced number of observations takes a toll on statistical accuracy. Moreover, economic growth does not measure the same

factor of influence as employment growth, so the latter tests the variable that must be preferred for controlling the driving forces of illegal immigration. The same applies to GDP per capita as an alternative to demand for labour (annex J).

The next sensibility test suffers from the same shortcomings as the preceding estimation results because of a shrunken data set, which is increasingly prone to single cases. Several countries were excluded from the regressions because of a lack of data, so only 69 to 70 observations remained in the data set. The results of the regression with the original data (*GLS1* and *GLS3* in annex L) indicate a significant influence of the *EPL\_TEMP* and *EPL\_ALL* indexes for labour market regulation (definition in annex K). The *GLS* estimations are more appropriate to large *T* data sets (Wiggins 1999). The number of time periods is smaller than in the basic regressions of the previous section, so one could call these results into question. However, these results are also called into question by the final estimations, which take into consideration multicollinearity of the (theoretically) independent variables. All *EPL* variables are insignificant, which should be regarded as the true outcome (annex M). But one must be aware of the fact that only 18 observations (five countries) with an amnesty (*amn1=1*) remain because of the restriction to the period until 2003. This fact reduces the meaningfulness of these results.

The last sensibility tests concern the effect of amnesties themselves. In the standard models presented in the preceding section, it is assumed that the positive effect of amnesties endure quasi-eternally. Therefore, the dichotomous *AMN* variable was coded 1 for all years succeeding the amnesty. One could, however, argue that this effect lasts only a certain period of time and then diminishes. The standard models are estimated again but use a different coding pattern so that *AMN* equals 1 only during a certain number of years after the amnesty. This pattern would mean that the countries that organised mass legalisation campaigns are an attractive target of illegal immigration only during a limited period of time. After that, the reputation of the specific country diminishes again and possible illegal immigrants regard it as an ordinary country that tries to control illegal immigration. The statistical analysis, however, provides no indication of this hypothesis (see annex N for results with an assumed effect of amnesties during two and three years, respectively).

## 9. Conclusion

The first econometric analysis of the effects of amnesties on illegal immigration in the European context reveals that amnesties have a small positive effect, as has been predicted by the initial theoretical assumptions.

These results should be used with a caveat, as already indicated in the beginning of this paper. Besides the quality of the data mentioned in section 4, one should be concerned because of possibly influential omitted variables. It was not possible in the framework of this study to take into consideration exogenous shocks such as a deterioration of general circumstances in the sending countries.<sup>65</sup> Besides that, clear data on enforcement measures are not available, and so enforcement could be controlled for only in a rough manner. Finally, apprehensions of illegal immigrants are not equal to illegal immigration (for criticisms of this point see Espenshade 1995: 545). This fact becomes clear when the effect of employment growth proved to be negative, even though one would expect increasing illegal immigration in periods of higher demand for labour. This effect could indicate that enforcement measures are reduced in times of economic prosperity.

However, the results of this, in some respects limited, study clearly show positive effects of amnesties on future illegal immigration and confirm the warnings of (mostly) conservative politicians against mass legalisation campaigns. If these hypotheses are valid, a self-enforcing spiral of escalation could develop. Amnesties attract new illegal immigration and the consequences of illegal immigration are alleviated by new amnesties, which again lead to more illegal immigration. The supposed remedy becomes one of the causes of the problem, so immigration policy could fall into the trap of a path-dependant, self-enforcing illegal immigration.

Because the effects are relatively small, one could easily argue, however, that legalising illegal aliens is the lesser evil compared to a large number of immigrants without rights, who are not integrated into society and seek to evade the control of the state. The results of this study do not suggest which policy should be pursued, but it does show that the pull effect in arguments identified in chapter C and used to legitimise the rejection of legalisation are valid. However, the basic question of what triggers people to leave their country and immigrate to another country remains unanswered. The standard immigration theories may provide answers (push/pull models, networks, etc.; see Düwell 2006). This question, however, was not

---

<sup>65</sup> In the same vein, it was not possible to examine macro-political factors like migration regimes (Zolberg 1987) because of the limited number of cases and a lack of information on the sending countries of illegal immigrants.

an object of this study, although single issues have been taken into consideration for the specification of the estimation model.

Future research could be stimulated by the availability of better data whose quality has been consolidated beginning in 2004 (Cirefi). Furthermore, it is theoretically possible to conduct time-series studies using monthly data of a single country. However, most member states are reluctant to publish the necessary data because of security concerns.<sup>66</sup> They are probably even more reluctant to make data on enforcement available, so estimations on the effect amnesties exert will be difficult to conduct in the foreseeable future.

---

<sup>66</sup> Sweden could be a candidate for disclosing such data because she has expressively criticized that the Cirefi data set had not been published. However, this country is not exactly the main destination of illegal immigrants in the world.

## Annex A

Country	Year of program	Number Applied	Number Regularized	Approval rate	Type of permit offered
France	1981-82	150000	130000	87%	Permanent residence
	1997-98	150000	87000	-	Permanent residence
Belgium	2000	50000	Unknown	-	Long-term residence
Greece	1998 - "White card"	370000	370000	100%	Six-month residence
	1998 - "Green card"	228000	220000	96%	One to five-year work and residence
	2001	368000	228000	62%	Two-year work and residence
Italy	1986	unknown	118700	-	Temporary work permit
	1990	unknown	235000	-	Two-year residence
	1995	256000	238000	93%	One or two-year residence
	1998	308,323	193200	63%	Temporary work permit
	2002	700000	634728	91%	Temporary one-year permit
Luxembourg	2001	2894	1839	64%	Six-month residence permit to allow applicant to find employment, after which there is a possibility of longer-term residence permits
Portugal	1992-93	80000	38364	48%	Temporary residence
	1996	35000	31000	89%	Temporary residence
	2001	unknown	170000	-	One-year residence permit, with possibility of renewing up to four times. After five years, applicant becomes eligible automatically for permanent residence.
Spain	1985	44000	23000	52%	One-year renewable residence and work permit
	1991	135,393	109,135	81%	Three-year residence
	1996	25000	21300	85%	Five-year residence
	2000	247598	153463	62%	One-year temporary residence/work
	2001	350000	221083	63%	One-year temporary residence
	2005	691655	578375	84%	One-year renewable residence
United Kingdom	1998	unknown	200	-	One-year temporary work permit
United States	1986 - General legalization program	1700000	1600000	94%	Permanent legal residence
	Special agricultural workers	1300000	1100000	85%	Permanent legal residence

Source: Commission of the EU (2006b): 33-34.



## Annex B

```
. xtreg aprr amn1 pop dum1997 dum1998 dum1999 dum2000 dum2001 dum2002 dum2003 dum2004 dum2005, fe
Fixed-effects (within) regression      Number of obs   =      119
Group variable:  cntrid              Number of groups =       15
R-sq:  within =  0.5352                Obs per group:  min =        2
      between =  0.6467                avg =       7.9
      overall  =  0.5407                max =       10
corr(u_i, xb) =  -0.9991                F(11, 93)       =       9.73
                                          Prob > F        =     0.0000
```

aprr	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
amn1	<b>9911.995</b>	<b>4568.304</b>	<b>2.17</b>	<b>0.033</b>	<b>840.2483</b>	<b>18983.74</b>
pop	<b>.0155002</b>	<b>.0023583</b>	<b>6.57</b>	<b>0.000</b>	<b>.0108172</b>	<b>.0201833</b>
dum1997	<b>2994.969</b>	<b>6022.233</b>	<b>0.50</b>	<b>0.620</b>	<b>-8963.992</b>	<b>14953.93</b>
dum1998	<b>2459.278</b>	<b>5619.735</b>	<b>0.44</b>	<b>0.663</b>	<b>-8700.402</b>	<b>13618.96</b>
dum1999	<b>2205.118</b>	<b>5219.144</b>	<b>0.42</b>	<b>0.674</b>	<b>-8159.068</b>	<b>12569.3</b>
dum2000	<b>3422.106</b>	<b>4795.557</b>	<b>0.71</b>	<b>0.477</b>	<b>-6100.919</b>	<b>12945.13</b>
dum2001	<b>4130.933</b>	<b>4675.724</b>	<b>0.88</b>	<b>0.379</b>	<b>-5154.127</b>	<b>13415.99</b>
dum2002	<b>5582.316</b>	<b>4493.439</b>	<b>1.24</b>	<b>0.217</b>	<b>-3340.764</b>	<b>14505.39</b>
dum2003	<b>403.5385</b>	<b>4528.903</b>	<b>0.09</b>	<b>0.929</b>	<b>-8589.966</b>	<b>9397.043</b>
dum2004	<b>-4584.793</b>	<b>4456.406</b>	<b>-1.03</b>	<b>0.306</b>	<b>-13434.33</b>	<b>4264.747</b>
dum2005	<b>-5569.149</b>	<b>4417.978</b>	<b>-1.26</b>	<b>0.211</b>	<b>-14342.38</b>	<b>3204.08</b>
_cons	<b>-415636</b>	<b>68043.42</b>	<b>-6.11</b>	<b>0.000</b>	<b>-550756.7</b>	<b>-280515.2</b>
sigma_u	<b>395730.8</b>					
sigma_e	<b>10793.429</b>					
rho	<b>.99925665</b>	(fraction of variance due to u_i)				

```
F test that all u_i=0:      F( 14, 93) =    14.79          Prob > F = 0.0000
```

```
. xtserial aprr amn1 pop dum1997 dum1998 dum1999 dum2000 dum2001 dum2002 dum2003 dum2004 dum2005,
wooldridge test for autocorrelation in panel data
H0: no first-order autocorrelation
F( 1, 13) =    14.201
Prob > F =    0.0023
```

## Annex C

```
. quietly xtreg aprr amn1 pop dum1997 dum1998 dum1999 dum2000 dum2001 dum2002 dum2003 dum2004 dum2005, fe
. xttest3
Modified Wald test for groupwise heteroskedasticity
in fixed effect regression model
H0: sigma(i)^2 = sigma^2 for all i
chi2 (15) =    1.3e+31
Prob>chi2 =    0.0000
```

## Annex D (same regression as above)

```
. predict res, e
(41 missing values generated)

. sktest res

Skewness/Kurtosis tests for Normality
-----+-----
Variable | Pr(Skewness) Pr(Kurtosis) adj chi2(2) joint Prob>chi2
-----+-----
res      | 0.979         0.002         8.57         0.0138

. xtreg lnappr amn1 pop dum1997 dum1998 dum1999 dum2000 dum2001 dum2002 dum2003 dum2004 dum2005, fe
Fixed-effects (within) regression              Number of obs   =       119
Group variable: cntrid                        Number of groups  =        15
R-sq:  within = 0.4294                        Obs per group:   min =         2
        between = 0.4653                       avg             =         7.9
        overall  = 0.4374                       max             =        10

corr(u_i, xb) = -0.1002                       F(11, 93)       =        6.36
                                                Prob > F        =       0.0000
```

lnappr	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
amn1	.256797	.2384397	1.08	0.284	-.216697	.730291
pop	5.93e-08	1.23e-07	0.48	0.631	-1.85e-07	3.04e-07
dum1997	-1.104003	.3143266	-3.51	0.001	-1.728193	-.4798124
dum1998	-1.092371	.2933185	-3.72	0.000	-1.674844	-.5098988
dum1999	-.7550861	.2724099	-2.77	0.007	-1.296038	-.2141341
dum2000	-.6072792	.250301	-2.43	0.017	-1.104327	-.1102311
dum2001	-.4953552	.2440464	-2.03	0.045	-.9799829	-.0107274
dum2002	-.1593701	.2345322	-0.68	0.498	-.6251045	.3063643
dum2003	-.0357491	.2363832	-0.15	0.880	-.5051593	.4336611
dum2004	-.0432883	.2325993	-0.19	0.853	-.5051844	.4186077
dum2005	-.0860467	.2305935	-0.37	0.710	-.5439597	.3718664
_cons	7.87254	3.551482	2.22	0.029	.8199992	14.92508

```
sigma_u  1.8048805
sigma_e  .56335607
rho      .91122426 (fraction of variance due to u_i)

F test that all u_i=0:   F( 14, 93) = 60.66      Prob > F = 0.0000
```

```
. predict resln, e
(41 missing values generated)

. sktest resln

Skewness/Kurtosis tests for Normality
-----+-----
Variable | Pr(Skewness) Pr(Kurtosis) adj chi2(2) joint Prob>chi2
-----+-----
resln    | 0.717         0.058         3.80         0.1494
```

## Annex E

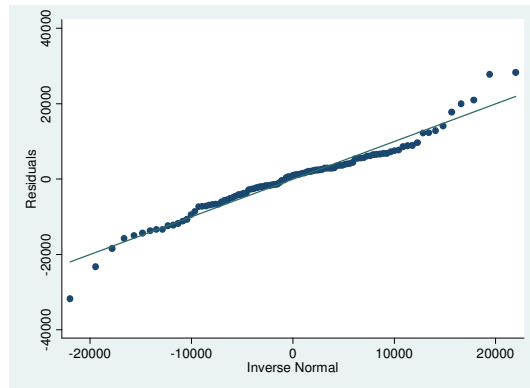
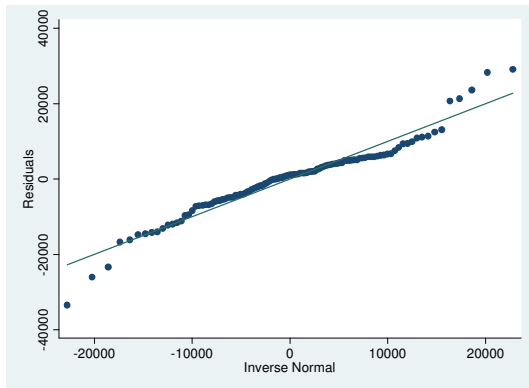
Skewness/Kurtosis tests for Normality				
-----+-----				
joint -----				
Variable	Pr(Skewness)	Pr(Kurtosis)	adj chi2(2)	Prob>chi2
res1	0.687	0.003	7.97	0.0186
res2	0.956	0.009	6.34	0.0420
res3	0.722	0.052	3.99	0.1357
res4	0.837	0.092	2.96	0.2273
lnres1	0.089	0.788	3.04	0.2193
lnres2	0.201	0.943	1.68	0.4317
lnres3	0.226	0.544	1.88	0.3909
lnres4	0.192	0.179	3.61	0.1646
lninres1	0.164	0.132	4.31	0.1159
lninres2	0.376	0.175	2.69	0.2603
lninres3	0.313	0.221	2.58	0.2750
lninres4	0.133	0.191	4.07	0.1310

Note: resX: residuals of original metric data, lnresX: residuals of log-transformed data, lninresX: residuals of estimations with dependent variable log-transformed only

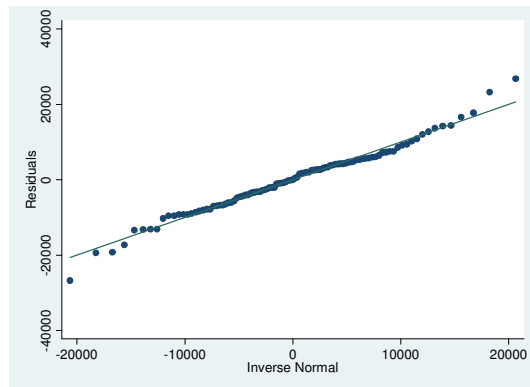
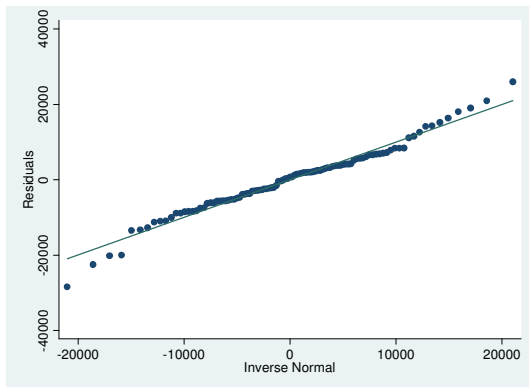
## Annex F

Newey-West regressions without logarithms:

### 1. NW1 and 2



### 3. NW3 and NW4



## Annex G

```
. quietly xtreg aprr amn1 pop dum1997 dum1998 dum1999 dum2000 dum2001 dum2002 dum2003 dum2004 dum2005, fe
. estimates store fixed
. quietly xtreg aprr amn1 pop dum1997 dum1998 dum1999 dum2000 dum2001 dum2002 dum2003 dum2004 dum2005, re
. hausman fixed
```

Note: the rank of the differenced variance matrix ( **10** ) does not equal the number of coefficients being tested ( **11** ); be sure this is what you expect, or there may be problems computing the test. Examine the output of your estimators for anything unexpected and possibly consider scaling your variables so that the coefficients are on a similar scale.

	Coefficients		(b-B) Difference	sqrt(diag(v_b-v_B)) S.E.
	(b) fixed	(B) .		
amn1	9911.995	19029.73	-9117.74	.
pop	.0155002	.0007803	.0147199	<b>.0023514</b>
dum1997	2994.969	-13212.98	16207.95	.
dum1998	2459.278	-10695.78	13155.05	.
dum1999	2205.118	-11347.48	13552.59	.
dum2000	3422.106	-7625.832	11047.94	.
dum2001	4130.933	-5856.759	9987.692	.
dum2002	5582.316	-3130.662	8712.978	.
dum2003	403.5385	-6126.889	6530.428	.
dum2004	-4584.793	-8740.211	4155.418	.
dum2005	-5569.149	-7564.394	1995.245	.

b = consistent under H<sub>0</sub> and H<sub>a</sub>; obtained from xtreg  
 B = inconsistent under H<sub>a</sub>, efficient under H<sub>0</sub>; obtained from xtreg

Test: H<sub>0</sub>: difference in coefficients not systematic

chi2( **10** ) = (b-B)'[(V\_b-V\_B)^(-1)](b-B)  
 = **53.55**  
 Prob>chi2 = **0.0000**  
 (V\_b-V\_B is not positive definite)

## Annex H

```
. quietly xtreg appr amn1 pop forl1 polabs empl dum1997 dum1998 dum1999 dum2000 dum2001 dum2002 dum2003 dum2004 dum2005, fe
. vif, uncentered
```

Variable	VIF	1/VIF
pop	<b>55.90</b>	<b>0.017888</b>
polabs	<b>31.20</b>	<b>0.032048</b>
forl1	<b>9.49</b>	<b>0.105423</b>
amn1	<b>2.44</b>	<b>0.409717</b>
empl	<b>2.10</b>	<b>0.477118</b>
dum1999	<b>1.45</b>	<b>0.689777</b>
dum2000	<b>1.36</b>	<b>0.736088</b>
dum1998	<b>1.27</b>	<b>0.790419</b>
dum2001	<b>1.26</b>	<b>0.792522</b>
dum2002	<b>1.24</b>	<b>0.808551</b>
dum2005	<b>1.23</b>	<b>0.811628</b>
dum1997	<b>1.23</b>	<b>0.815544</b>
dum2003	<b>1.17</b>	<b>0.855332</b>
dum2004	<b>1.16</b>	<b>0.858703</b>
Mean VIF	<b>8.04</b>	

## Annex I: GROW instead of EMPL

Variable	Original data	Proportional version
amn1	7398***	.0008244
	0,009	0.052
pop	0,0097*	
	0,077	
forl1	23,50**	.0001018
	0,018	0.690
polabs	-0,389***	-.3089408
	0,006	0.667
growth	1437**	-.0000364
	0,031	0.768
_cons	-535337	.0018427
	0,081	0.596

## Annex J: GDP/cap instead of EMPL

Variable	Final version
amn1	.0008729
	0.004
forlq1	.0000971
	0.322
polabs	-.5361586
	0.320
GDP/cap	-.0000274
	0.290
_cons	.0047539
	0.153

## Annex K: Definition EPL, scale 0-6

Overall	Regular contracts (1/2)	Procedural inconveniences (1/3)	1. Notification procedures 2. Delay to start a notice	(1/2) (1/2)
		Notice and severance pay for no-fault individual dismissals (1/3)	3. Notice period after 9 months 4 years 20 years	(1/7) (1/7) (1/7)
			4. Severance pay after 9 months 4 years 20 years	(4/21) (4/21) (4/21)
		Difficulty of dismissal (1/3)	5. Definition of unfair dismissal 6. Trial period 7. Compensation 8. Reinstatement	(1/4) (1/4) (1/4) (1/4)
	Temporary contracts (1/2)	Fixed term contracts (1/2)	9. Valid cases for use of fixed-term contracts 10. Maximum number of successive contracts 11. Maximum cumulated duration	(1/2) (1/4) (1/4)
		Temporary work agency employment (1/2)	12. Types of work for which is legal 13. Restrictions on number of renewals 14. Maximum cumulated duration	(1/2) (1/4) (1/4)

Source: OECD (2004)

## Annex L: EPL regressions with original data

Variable	GLS1	GLS2	GLS3
amnl	7784***	11002***	8006***
	0,001	0,000	0,002
pop	0,0383***	0,0209***	0,0329***
	0,000	0,001	0,000
forl1	-0,77***	-0,51	-0,63***
	0,000	0,014	0,000
polabs	-8,123	24,576	2,161
	0,579	0,122	0,888
empl	63465	142457**	19289
	0,336	0,028	0,798
epl_temp	-16264***		
	0,001		
epl_reg		12109	
		0,162	
epl_all			-19659**
			0,026
_cons	-2081115***	-1182072***	-1797173***
	0,000	0,001	0,000

Annex M: EPL regressions with variables standardized to population (final version)

Variable	GLS1	GLS2	GLS3
amn1	.00103152	.00082757	.00095739
	0.0700	0.1775	0.0881
pol	-.3247	-.2838	-.423
	0.7907	0.7967	0.7140
for11	-.000358	-.00026	-.000337
	0.5013	0.6522	0.5285
empl	-.00362	-.00581	-.00315
	0.7831	0.7017	0.8172
epl_temp	.000489		
	0.5012		
epl_reg		-.000719	
		0.7174	
epl_all			.000657
			0.6040
_cons	.002849	.003045	.002753
	0.4839	0.4747	0.4984

Annex N: model1a to model4a: effect of two years assumed; model1b to model4b: effect of three years assumed

	model1a	model2a	model3a	model4a	model1b	model2b	model3b	model4b
amn2yr	-.00004	.000062	.000053	.000047				
	0.8634	0.8551	0.8731	0.8986				
amn3yr					.000202	.00035	.000343	.00036
					0.4037	0.2825	0.2855	0.2729
forq11		.000167	.000126	.0002		.000171	.000094	.000192
		0.2456	0.2906	0.1813		0.2734	0.3366	0.0976
pol			.313787	.114096			.324953	.518235
			0.5777	0.8541			0.6465	0.4726
empl				-.014078				-.014633
				0.0613				0.0515
_cons	.000556	-.00025	-.000961	-.000393	.000497	-.00016	-.000658	-.001416
	0.0125	0.7302	0.5256	0.8111	0.0379	0.8421	0.7269	0.4507

## E. Conclusion

Legalisation cannot be fully explained by interest politics. If that were the case, the attitudes towards legalisation would be expected to be based on objective interests and actual policies in France and Germany would be expected to be more similar. Nor can it be explained by institutional agency, because there are no hints that states struggle with different normative traditions. Rather, political actors seek to make use of the structures that already exist to guarantee legitimacy for their actions. If the main concern of governmental actors really is to accumulate legitimacy, as stated in the introduction, then politicians have a good starting position in the case of legalisation of illegal foreigners. Citizens' negative attitudes towards legalisation cannot be explained by imagined labour market competition; income effects play only a secondary role. The most important explanatory factor is the educational level of each individual. Objective interests do not trigger attitudes towards legalisation, but rather a basic mental predisposition for or against illegal immigrants who are eligible for legalisation. Politics concerning amnesties are thus not tied to an objectively given structure like the socio-economic composition of the electorate, but are open for political discretion. Attitudes on legalising illegal immigrants can be regarded as being mediated by beliefs and perceptions, which can be used by political agents or altered by political developments.

However, politicians must adhere to a national frame of legitimating strategies that cannot be neglected without consequences. It was evident in the cross-country comparison of political debates that there are national systems of reference that provide patterns of interpretation. Legalisation is seen and incorporated into immigration policy in a very specific way that differs from one country to the next. In both countries investigated in this study, there are fundamental debates about which basic principles apply to legalisation and which of these should be held in higher esteem: a legal system able to work, humanitarian rights, practical considerations, etc.

The results suggest that legalisation is "technicized" in France by describing it as an unusual but possible pragmatic instrument for the adjustment of the inefficient rule of law. In Germany, however, legalisation is discussed at a more normative level. Proponents of conservative immigration policies regard it as a substantial infringement on the rule of law, so that even defenders of a humanitarian solution for illegal immigrants are not able to challenge this view without significant political harm.

But the arguments brought to bear in the debate on legalisation are not necessarily sound because they are not irrefutable facts, but instruments to generate legitimacy, and there are enough possibilities for arguing and persuading because socio-economic factors play a minor role. One of the most important arguments, the alleged pull effect of legalisation, has been subjected to an empirical investigation. In the political debate, it does not make any difference whether this is true or not, insofar as it is not contested by incontrovertible findings. In reality, the results suggest that amnesties indeed exert a small attracting influence on illegal immigration, which has been contested by immigration friendly politicians in the French parliament. The effect, however, is not large; therefore, some conservative politicians may put too much stress on this argument. Moreover, one can see legalisation as an instrument to restore legitimacy that has slipped away from immigration politics because of a high number of illegally residing foreigners. This aspect explains some of the peculiarities in the French debate on legalisation, e.g. the idea that the coherence of the law is secured by creating exceptional rules for legalising illegal immigrants.

It has become clear that the politics of legalisation are susceptible to manipulation by introducing certain interpretations into the political debate, which become predominant and supersede other views. In this study, there are no signs of a systematic misuse of this constellation by any certain actor. However, the history of immigration policy is full of examples of symbolic politics in which a certain measure has been initiated while the actors are totally aware of its lack of effect (Faist 1994: 52). Legalisation has escaped this fate so far because it is a specific instrument that is the result of neglecting populist mechanisms rather than an example of a superficial measure. This result does not apply to policies concerning illegal immigration in general, both with regard to concealing a lack of control (Cornelius 2004: 408) and flexing the state's muscles (Bigo 2005: 50).



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## Zusammenfassung

Die Dissertation beschäftigt sich mit illegaler Einwanderung und der Legalisierung von illegalen Einwanderern in Europa. Sie geht drei zusammenhängenden Fragen nach, die empirisch untersucht werden: Welches sind die bestimmenden Gründe für Einstellungen der europäischen Bevölkerung gegenüber der Legalisierung von illegalen Ausländern, die bereits seit einigen Jahren im Einwanderungsland leben? Wie werden Maßnahmen für oder gegen Legalisierungen in der politischen Diskussion Deutschlands und Frankreichs legitimiert? Haben Legalisierungsmaßnahmen einen Effekt auf zukünftige illegale Einwanderung?

Die Beantwortung der ersten Frage baut auf theoretischen und empirischen Arbeiten zu Einstellungen gegenüber Einwanderung auf. Diese werden auf Einstellung gegenüber Legalisierungen angewendet. Arbeitsmarktkonkurrenz, das soziale Sicherungssystem und sozialpsychologische Erklärungen werden mit einer Mehrebenenanalyse einer Eurobarometerumfrage von 2003 getestet. Die Ergebnisse zeigen, dass Bildung die wichtigste Rolle spielt. Zusammen mit früheren Legalisierungen in dem betreffenden Land führt höhere Bildung zu einer höheren Zustimmung zu Legalisierungen. Wettbewerb auf dem Arbeitsmarkt tritt demgegenüber in den Hintergrund.

Legalisieren bedeutet zuzugeben, dass der Staat nicht in der Lage ist, seine Gesetze zu Einwanderung und Aufenthalt umzusetzen. Dies stellt besondere Anforderungen an die Legitimierung von Amnestien. Frankreich und Deutschland gehen unterschiedlich an mit illegalem Aufenthalt verbundenen Problemen heran. Im zweiten Teil der Arbeit werden parlamentarische Debatten daraufhin untersucht, wie Regierung und Opposition ihre zustimmende oder ablehnende Haltung zu Legalisierungen begründen. Auf der Grundlage von mehreren Dutzend Reden werden Argumentationsmuster identifiziert, mit denen die Redner Zustimmung zu ihren Vorschlägen zu erzeugen versuchen. In Deutschland wird die politische Debatte von der Vorstellung einer Steuerbarkeit der Einwanderung und der Gefährdung der Kohärenz des Rechts durch Legalisierungen bestimmt. Dagegen werden Legalisierungen in Frankreich von beiden Seiten des politischen Spektrums auf einer etwas pragmatischeren Ebene diskutiert, so dass sie Gegenstand einer offenen politischen Auseinandersetzung sind.

Ausgangspunkt für den dritten Teil sind die von einigen Mitgliedstaaten der Europäischen Union geäußerten Befürchtungen, dass die in einigen Ländern nicht unüblichen Legalisierungen von illegalen Einwanderern zu verstärkter illegaler Einwanderung führen können. Diese Frage wurde bislang für Europa nicht empirisch überprüft, was auch mit bislang nicht verfügbaren Daten zusammenhängt. Das Design von empirischen Untersuchungen von Steueram-

nestien wird für die Analyse der Auswirkungen von Amnestien im Ausländerrecht übernommen. Ein Datensatz der Europäischen Kommission (Cirefi) wird für eine Panelanalyse genutzt, wobei für Arbeitsnachfrage, Netzwerkeffekte und Kontrolldichte kontrolliert wird. Die Daten weisen Beschränkungen hinsichtlich ihrer Konsistenz auf. Unter diesem Vorbehalt lässt sich feststellen, dass Legalisierungskampagnen einen leichten positiven Effekt auf illegale Zuwanderung ausüben.