

The German law on skilled labour immigration: Overview and outlook

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1. Introduction

Background:

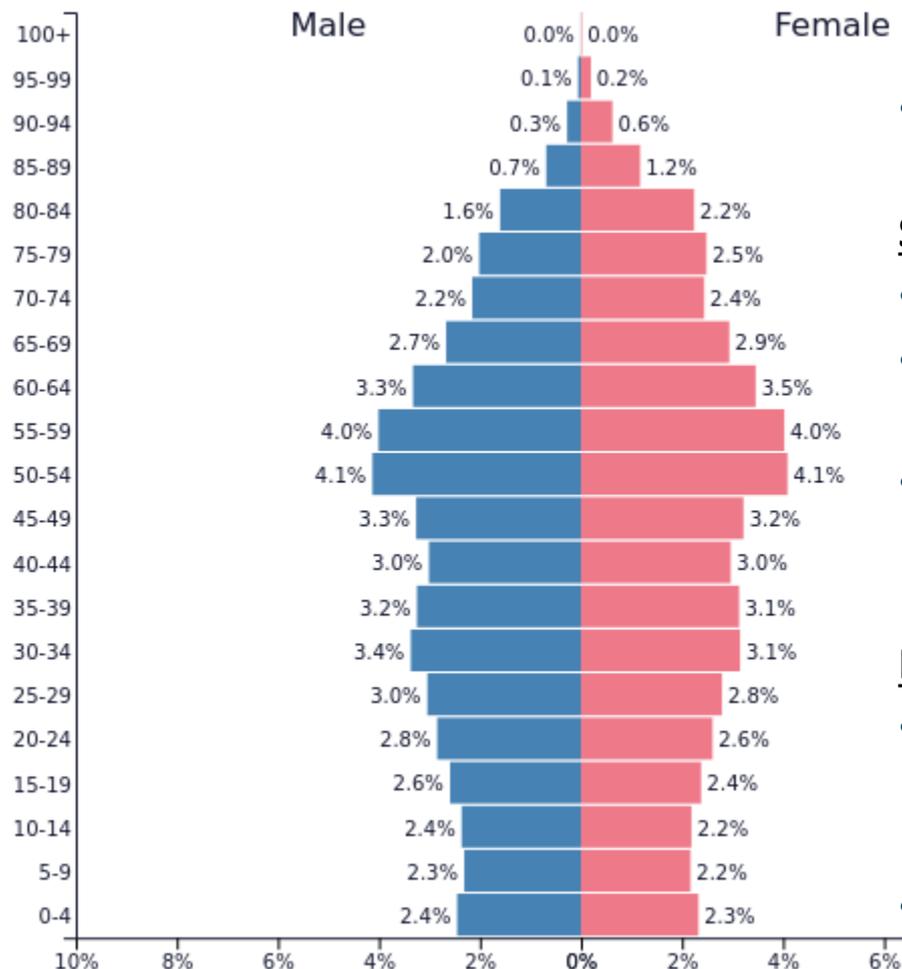
- Labour migration is an important factor for Ukrainian policymaking, more than 2 m Ukrainian workers work abroad (PS/02/2019)
- Countries in the West/EU are attracting more and more Ukrainian workers
- However, many labour markets of “old” EU member states are relatively closed for non-EU labour migrants
- Germany has recently adopted a new law to facilitate labour immigration by non-EU nationals with a vocational education

Purposes of this Policy Briefing

- Provide an overview of existing labour immigration rules to Germany
- Describe the change in immigration rules brought about by the new act
- Provide an outlook regarding the immediate impact of the new act and the possibility of future legal changes

2. Demographic reasons for opening the German labour market

German population by age, 2019



Source: Populationpyramid.net

General ageing of population

- Low fertility rates in recent decades lead to shrinking of German-born workforce
- Increasing life expectancy creates added pressure on pensions system

Scarcity of skilled workers

- Especially in vocational qualifications
- Less than 2 unemployed per vacancy in 204 of 316 professions
- Share of advertised vacancies in these vs. all professions rose from 26% (2010) to 80% (2018) (Kofa, 2019)

Role of immigrants

- Labour immigration from non-EU states remains weak: 60 k in 2018, of which 39 k skilled (Mayer, 2019)
- Fuchs et al., 2018: At least 146 k non-EU labour immigrants needed per year

➤ **Pressure to increase labour immigration**

2. Existing labour immigration rules in Germany

For workers from other EU member states

- EU-wide freedom of movement of workers with EU or EFTA nationality
- Transitional provisions were in force, expired in 2014 (BG, RO) and 2015 (HR)

For non-EU nationals

- EU Blue Card for individuals with **academic education**:
 - Grants right to work in issuing EU member state
 - Requires work contract/offer with minimum gross income of EUR 55,200 (or EUR 43,056 for professions with labour scarcity, e.g. MDs, engineers, IT professionals)
 - Can be converted into permanent resident status after 33 months
- *Current* rules (before the new act) for persons with **vocational education**:
 - Only for individuals working occupations with labour scarcity: Regulated through a whitelist published by Min. of Labour and Soc. Affairs, including professions in the healthcare, construction and engineering sectors
 - Requirements, both verified by Federal Labour Agency:
 - Proof of equivalence of qualification to resp. German qualification
 - Negative “preference check” for availability of German worker for job
- Further facilities for scientists, au-pair workers, intra-company transfers, self-employed individuals (+ individuals from the former USSR of German or Jewish descent)

4. The new skilled labour immigration act

Motivation

- Facilitate immigration of non-EU nationals with vocational qualification
- Response to calls from private sector to facilitate immigration

Timeline

- Bundestag adopted act on the 7th June 2019
- The act will enter into force on 1st March 2020

Main content:

- New immigration rules for immigrants with vocational qualifications (and academic education but falling short of the wage threshold for the Blue Card)
- Opens up German labour market to non-EU nationals with vocational qualifications in all occupations (whitelist of scarcity professions scrapped)
- No need for “preference check” for German applicants to a job
- Permanent residency granted after four years
- **Liberalisation of migration policy compared to status quo ante**
- **But significant conditionalities remain**

Conditions and rules for potential immigrants

Conditions for potential migrants

- A vocational qualification *equivalent to the respective German qualification*
- Equivalence is determined by various organisations, often a central body for recognition of foreign education certificates (ZAB) and chambers of commerce
- Migrants must be economically self-sufficient by either having a binding job offer or sufficient funds to support themselves during the search period

Migrants without a job offer or equivalent qualification

- Possibility to stay for 6 months to look for work if:
 - The worker has a qualification recognized as equivalent
 - The worker has sufficient command of the German language
 - The worker can financially support him/herself
 - Can only perform trial work or internships in jobs using his/her qualification
- Workers without recognised equivalent qualifications :
 - May stay for 24 months for additional training towards a recognised qualification
 - Commence work prior to certification of equivalence if they only lack competences of lesser significance, achieve equivalence within 2 years

➤ **In practice, equivalence of qualification will be the main hurdle**

Difficulties with establishing equivalence of qualifications

Establishing equivalence of qualification is likely to be very difficult

- Germany has a unique “dual” system of vocational education
- Different from vocational education in most other countries
- Combination of (vocational college) and on-the job training

Examples

- Truck driver: A 3 year dual education course containing *inter alia*
 - Technical and physical aspects of trucks
 - Safety issues
 - Legal issues
 - Road traffic regulations
- Elderly care professional: Also a 3 year course containing
 - Social skills
 - Medical foundations
 - Care practice
 - Ethical issues

➤ **Even when prospective candidates are competent in their jobs, their qualification is likely to not be recognised on formal grounds**

5. Outlook

General relevance

- In theory, the skilled labour immigration act is a real opening-up of the German labour market for Ukrainian workers with vocational qualifications

Immediate impact

- In practice, the effect is likely to be very limited as qualifications will often not be recognised as equivalent on formal grounds (see e.g. SVR, 2019)
- Schemes for on-the job training etc. are in their infancy and it is unlikely that these will be used in larger scale
- However, for workers with academic qualifications but falling short of the wage thresholds of the EU Blue Card, the new act may indeed make migration to Germany more accessible

Medium-term outlook

- It is quite possible that changes to the act will be made if migration under the act, as expected, remains limited
- Pressure from private sector for more liberal immigration rules will only grow

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The German Economic Team (GET) advises the governments of Ukraine, Belarus, Moldova, Georgia and Uzbekistan regarding the design of economic policy reform processes and a sustainable development of the economic framework. As part of the project we also work in other countries on selected topics.

In a continuous dialogue with high-level decision makers of the project countries, we identify current problems in economic policy and then provide concrete policy recommendations based on independent analysis.

In addition, GET supports German institutions in the political, administrative and business sectors with its know-how and detailed knowledge of the region's economies.

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