

ILLEGAL IN GERMANY

Summary of results of the research project
on the life situation of 'illegal' migrants in Leipzig

Commissioned by: Jesuit Refugee Service (Europe), Fr. Eddy Jadot SJ

Academic supervision and editor: *Institut für Gesellschaftspolitik* at the *Hochschule für Philosophie* in Munich, Prof. Dr. Norbert Brieskorn SJ, Prof. Dr. Johannes Müller SJ

Production of and responsibility for the research report: Fr. Jörg Alt SJ

Table of Contents

Foreword

1. Basic information on study and research report
 - 1.1. Conception
 - 1.2. Definition of terms
 - 1.3. Data collection and production of the report
2. Description of circumstances of life
 - 2.1. Refugees
 - 2.2. Labour Migrants
 - 2.3. Structures which make migration and integration possible
 - 2.4. Problematic developments since the end of 1996.
3. Discussion of central research theses
 - 3.1. Thesis 1: *Among 'illegals' there are also refugees in the sense of the Geneva Convention who no longer feel protected by German asylum law.*
 - 3.1.1. Non-acceptance of asylum applications
 - 3.1.2. Problems connected with the asylum process
 - 3.1.3. Illegality as a result of fear of deportation
 - 3.1.4. Deciding not to submit an application
 - 3.1.5. Result
 - 3.2. Thesis 2: *The employment of 'illegals' is, at least in the building trade, under current (international) conditions virtually unavoidable and indeed in some respects macro-economically useful. Moreover in comparison with other illegal practices it is of less significance.*
 - 3.2.1. Direct damage
 - 3.2.2. Context to determine the damage
 - 3.2.3. Indirect damage and utility
 - 3.3. Thesis 3: *The public discussion on 'criminality' of 'illegals' is for the most part polemical, because it makes scarcely any distinction between (A) Entry and residence*

without permission, (B) Offences committed against the background of needing to survive and lack of alternatives and (C) Intentional, serious crime.

- 3.3.1. Levels of offence
- 3.3.2. Result
- 4. Evaluation of measures taken hitherto
 - 4.1. Measures to control immigration
 - 4.1.1. Making crossing of borders more difficult
 - 4.1.2. Fighting the trafficking of migrants
 - 4.1.3. Fighting the origins
 - 4.1.4. Result
 - 4.2. Measures to fight illegal employment
 - 4.3. Side-effects of measures taken
 - 4.4. The limits of repressive combative measures
- 5. Possible conclusions
- 6. Two wishes as an Afterword

Bibliography

Readers' Notes

For the quotes in the summary the following applies: the longer quotes from the research documentation and the literature are characterised by indents and a smaller typeface.

- If the quote is marked by “double inverted commas” in addition, then this is a word-for-word reproduction of the content from a tape recording or from written documentation (books, files, documents...).
- With ‘single inverted commas’ those dialogues and quotes have been characterised which were reconstructed on the basis of interview notes and minutes from memory. The reconstructed dialogues and quotes thus reproduce what was meant in the talk rather than the exact wording, except when within such a reconstructed dialogue a word-for-word quote should be characterised by the express use of “double inverted commas”.
- Finally in the third person there are summaries of interview contents which those carrying out the study completed after an interview. These summaries too can contain “word-for-word” or ‘reconstructed’ extracts from interviews.

FOREWORD

This report describes the behaviour of people who do not bother to make their actions conform to laws in force or not (either by desire or circumstance). The report aims to relate two 'secret worlds' to one another which for outsiders are usually strictly separate, thus making a unified picture of them: the world of the 'illegals' and their supporter networks on the one hand, and the world of the institutions dealing with them on the other. For the author a number of wide-ranging obligations result from this separation as regards protection of data, persons and confidentiality of which interviewees have been given assurance. This in turn will presumably cause the reader to question the credibility of the report: is what is stated here in fact an apposite picture of reality?

The most important means of ensuring the visibility and transparency of these 'secret worlds' appeared to the author to be the detailed, if anonymous, quotes of his interviewees in the research report itself. They provide the best evidence of the reasons and motivations prompting a growing number of people to disregard laws – whether in that they do something which is forbidden or fail to do something which is obligatory. These quotes are also meaningful because they are the words of those who scarcely have a chance to express their view of things otherwise. In the author's view the contrast between these statements and the 'public' and 'official' declarations on the same subject make apparent why many of the measures adopted hitherto in this area either produce poor results or have side-effects which can be in no-one's interest. This clarity is in its turn an important pre-requisite for the beginning of a comprehensive discussion on this complex of problems including all of the relevant social groups, which reflects the many facets appropriate to the material and is orientated toward a search for solutions.

A number of statements made in this summary cannot be substantiated in the appropriate way for reasons of space. The main point of the summary is to provide an overview of important aspects of the current situation. The author therefore refers those readers interested in further evidence substantiating the findings to the research report itself (availability cf. last page).

At this point I would like to convey my heartfelt thanks to all those who have contributed to the success of the research project and enabled this report to come into being. As the author is not a specialist in many of the areas which in the context of the problems dealt with here are of considerable importance, he was particularly dependent on the extensive and patient presentations and explanations of his interviewees. The report was researched and put together to the best of the author's knowledge and ability. Any imprecisions, distortions or mistakes remaining are the sole responsibility of the author.

Munich, 15th June 1999

1. BASIC INFORMATION ON STUDY AND RESEARCH REPORT

1.1. Conception

The point of reference for the study is the numbers of people who are residing in the territory of the European Union without permission (“illegal”), which have been rising for years. Increasingly both policy makers and society are coming to realise that tensions and problems within societies are growing (and will grow) by virtue of the presence of this group of persons. The point of departure for the study was the empirical attempt to find out how the problem of “illegality” is viewed by three groups of persons (i.e. ‘illegals’, contact persons and experts) in a specific city (in this case Leipzig, the second largest city in Eastern Germany).

The research report is made up of the following four sections: Part I presents the methods used for collection of data and assessment etc. as well as for the substantiation of statements. In Part II the main emphasis is on description of biographies, background to migration and the day-to-day problems of ‘illegal’ immigrants in Leipzig. Part III concentrates on three complexes of themes which in this context are (as a general rule) controversial topics in discussions in the societal context, namely:

- a. What effect did the asylum reform of 1993 have on refugees’ behaviour?
- b. What does an analysis of damage and utility of the presence of ‘illegal’ immigrants for German society reveal?
- c. What must be borne in mind when discussing illegality and criminality?

Part IV rounds off by examining the efficiency of current approaches attempting to combat illegal immigration, illegal employment of foreigners and selected forms of crime¹.

1.2. Definition of terms

*‘Illegal’ migrants*² (colloquially abbreviated to ‘illegals’) are persons who enter Germany without permission and/or reside in Germany without permission. ‘Entry without permission’ is understood to mean that the persons concerned do not have valid papers for entry to

¹ As with all empirical field studies which are primarily carried out in one particular place, in the present example too the question arises as to which results and statements derived from them can be regarded as valid only for the area concerned (i.e. Leipzig) and which have more general validity. In the course of the collation of data some aspects did indeed indicate a Leipzig peculiarity in comparison to other German cities, e.g. the high proportion of white migrants (especially from Central, Eastern and Southeastern Europe), the low proportion of women or the low proportion of those who are employed illegally in private households. Part II of the research report goes into these special points in particular. The author did his best in sections III and IV to confirm the truth of the statements collated with the help of interviewees from outside Leipzig or documentary evidence.

² The author adopts the term usually employed in Germany for lack of a more suitable alternative in describing these people as ‘illegal’ immigrants or just ‘illegals’. The shortest justification indicating the wisdom of using this term is provided by Lederer/Nickel:

“The term ‘illegal’ will be used in the following in preference to other, related expressions employed, because the respective (aliens’) legal regulations of a state define the contextual conditions for the lives of migrants, especially if they are illegal. Other terms used such as irregular, uncontrolled, clandestine or undocumented migration do not express the fact that this group of migrants is distinct from other forms of migration legalised by the state ... in essence solely on account of the fact that their residence in the host country constitutes an infringement of the law; this places them outside ‘lawful society’.”[p.15]

Germany or cannot have valid papers which would permit them entry. They must (or would have to) therefore – should their papers be checked – reckon with being refused entry, being returned, removed or even arrested and deported. ‘Unauthorised residence’ is understood to mean that the persons concerned do not have valid papers for their residence in Germany, nor are able to have them. They must (or would have to) therefore – should their papers be checked – reckon with being arrested and deported. As distinct from the ‘illegal’ migrants, but closely connected with this group, are the *bogus legal migrants* (colloquially abbreviated to ‘bogus legals’). These are persons who enter or are resident in Germany with apparently genuine papers (passports, identity cards, visa stamp etc.), which means the quality of the papers is such that they would pass a superficial or even a thorough check. This group is made up of two sub-groups: The first sub-group is characterised by the fact that they obtain their papers irregularly. ‘Obtaining irregularly’ here is understood to mean all those avenues with the help of which a person can get papers, while evading the regular application and distribution procedures. For instance papers could be obtained by faking or falsifying a stolen document, buying (blank) papers for a new identity, by blackmail or theft. The second sub-group organises legal entry papers through authorised offices giving false data on their intentions regarding entry and residence. This group includes all of those for instance stating that they want to enter Germany as tourists, businessmen or visitors, although they intend from the first to find work after their entry to Germany. *Experts* in the wider sense denotes employees of government offices, advice centres, institutions, organisations and clubs etc. who in the stead of the host society are professionally concerned with ‘illegals’. The *contact persons* are situated between these two groups. They are persons who on account of personal, ethnic minority/national or voluntary work relationships are in close contact with individual ‘illegals’ and/or the illegal milieu as a whole.

1.3 Data collection and production of the report

In methodological terms the present research project received important stimulating suggestions from co-workers on the dutch study “The Unknown City” being carried out by Prof. G. Engbersen (currently at the University of Rotterdam). Of great significance for the data collection and collation process was the methodological tool called “*Datenraster*” (= data-framework), based on their questionnaire, which the author adapted to suit German conditions. This instrument enabled manageable and flexible collection and collation of the data on individual ‘illegals’ (using different methods, based on various encounters and over a longer period of time) and their moulding into an increasingly comprehensive and complete biography.

The main method for attaining data was the interview. 77 talks were conducted with 35 ‘illegal’ interviewees. In addition there were reports from contact persons on the fate and the problems of approximately a further 60 ‘illegals’ who were either no longer in Leipzig or were too afraid of direct contact with the author. 87 files on ‘illegal’ immigrants were selected at random from the official records and evaluated. There was working contact with 24 official institutions at the federal, *Länder* and local authority level. The author conducted 39 interviews with representatives within the context of these authorised contacts. In addition to this there were a number of interviews with employees of such institutions conducted on an ‘informal’, i.e. confidential and anonymous basis. Over and above this various offices allowed the author to view extensively their files and records, some produced official statements or statistics on specific problems at the author’s request, and finally some material, in part of a confidential nature, was ‘leaked’ to the author for his research. Last of all 60 interviews were conducted with contact persons on their general knowledge of the milieu. The categories of information thus received were then related to one another with the help of various sets of

verification criteria and assembled to form a comprehensive picture of the situation in Leipzig and, to some extent, elsewhere.

2. DESCRIPTION OF CIRCUMSTANCES OF LIFE

The description of the situation in this summary is confined for reasons of clarity to the circumstances of the two main groups of ‘illegals’ encountered within the research project: refugees and labour migrants³. These two groups are not only very different in terms of the situation which caused migration, but also as regards their behavioural strategies in Germany.

2.1. Refugees

The term refugee describes a person who “owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion” has left their country of origin or had to leave it, because there their “lives or (their) freedom ... would be endangered”⁴. Among the interviewees there were people who gave as their *reason for emigration* flight from political persecution by (quasi) state institutions, from civil war, ethnic persecution and anarchy, who suffered discrimination on account of their race or religious conviction, who were imprisoned and tortured and whose basis for their lives had been systematically destroyed. The majority of these interviewees came from the countries of Asia and Africa as well as Turkey. They saw no future for themselves back home and regard Germany as the focal point of their future lives. In this group there were both single people and families with children. Refugees have chosen Germany and/or Leipzig as their *migration goal* primarily for two reasons: the first reason is the presence of relatives or people they know, from whom the refugees hope to receive aid in adapting to the new situation. These persons lived legally in Germany for years, as (the descendants of) guest workers, marital partners of residents, students or as persons having been granted asylum. The second reason is the hope associated with Germany of safety from persecution and material need⁵. As far as the *migration process* is concerned, in this group of ‘illegals’ we find the highest proportion of those persons who are dependent on the help of commercial or criminal providers of flight support (see 2.3.) The reason for this is that because of their flight situation and that they are noticeable because of the colour of their skin and lack of language knowledge they have fewer options available than labour migrants to organise entry and crossing of borders themselves. The compulsion to remain unnoticed in the target country determines the refugees’ *search for a flat and for work*. As arrest, expulsion and deportation mean an irrevocable return to a situation of existential need, many of them live and work in places which attract little notice or are hidden away, preferably in closed rooms requiring little contact with the outside world or movement in public. These people organise their *social relationships* accordingly. While the unmarried among them try to give themselves a semblance of (bogus) legality through getting papers (either by marriage or purchase), families or those among the refugees who don’t manage this (bogus) legalisation vegetate

³ Two thirds of the ‘illegals’ directly interviewed can be allocated to these two groups. A noteworthy group was also those coming to Germany to reunite the family.

⁴ The quotes are from Article 1A(2) and Article 33 of the Geneva Convention on Refugees.

⁵ While the wish for ‘safety from persecution’ is obvious, the addition ‘from material need’ requires some explanation. Precisely because the concept of social security benefit is unknown to many migrants (because there is scarcely anything comparable in their countries of origin), they aim for a country where they hope, aside from the safety from persecution, to be able to live without material worries through working. The chance of fulfilling both these aims of existential security make the states of the ‘first world’ more attractive as migration goals than the countries surrounding the homeland, because one already has the impression of Western Europe on account of (for instance) television “soap operas”, tourists or the reports and money transfers from those already living there that there is well-paid work for all.

under extremely primitive and stressful living conditions. As the proportion of *psychologically disturbed persons* is really high specifically among refugees (e.g. they suffer from persecution mania, disturbed relationships, lack of self-esteem etc.), such problems get continually worse without any form of relief being available. For all of these reasons refugees are much more dependent on third persons (e.g. those giving support or employers) than is the case with labour migrants.

2.2. Labour Migrants

Those ‘illegals’ who are counted as labour migrants are the ones whose *reason for migration* is primarily material need and a lack of prospects at home. They regard their illegal residence in Germany above all as a chance to be able to make a living for themselves and their dependants through working. With one exception, all of the interviewees in this group came from Central, Eastern or Southeastern Europe. The interviewees predominating were those who felt a continued attachment to persons in the country of origin: these were primarily fathers with a family, but also young men who want to provide for their parents and siblings back home. Thus the focal point in the lives of these people remains in the countries of origin and depending on their financial situation the interviewees commute backwards and forwards between their places of origin and of work. If one asks labour migrants why they chose Germany and/or Leipzig as their *migration goal*, first of all they also state that they already knew somebody there who served as their first port of call and helped them get their bearings. Alongside this the fact that they hope (or hoped) to find work with relatively high wages (in comparison with the rest of Europe) played a part. Fear of expulsion or deportation is not as significant a factor for them as for the refugees as one or two days after deportation it is certainly possible for them to be back at the accustomed places of work and residence. As far as *work* is concerned, the level of wages is the decisive factor, which is why one finds them in the “riskier” professions which are more easily susceptible to checks and controls, e.g. on the building sites. As regards *accommodation*, the large number of shared living units which can accommodate up to and even more than ten persons is conspicuous. Labour migrants are thus more relaxed concerning their *social relationships*: because they are white and because Slavic languages do not immediately arouse suspicion because of Leipzig’s proximity to eastern Europe, they can move about (as long as they observe rudimentary rules of conduct) relatively unhindered. As the majority of them are young men under 40 years of age *health problems* are generally only of a threatening nature in the case of accidents: for if a person has to be taken to hospital, then their papers will be checked or, should they not have any, the police will be called in to establish identity, which in turn can lead to expulsion or deportation. Its relative independence from outsiders gives the ‘illegal’ labour migrant milieu the semblance of a small, self-contained world.

2.3. Structures which make migration and integration possible

The Leipzig study confirms the importance discerned in comparable studies of private, commercial and criminal networks both for the preparation and process of migration and for life in the target country. These networks were defined in the present project as follows: the *private network* includes the family, relatives, neighbours, friends and work colleagues who help migrants more or less without it being to their advantage or simply ask for some compensation or contribution to cover their own costs. The *commercial network* includes central structures of a shadow economy, that is to say agencies, organisations and persons with a large range of offers of services⁶ at the customary market prices, i.e. prices which keep

⁶ The ‘range of offers’ is tailored to customer requirements and goes from the simple aid to cross the border once, via ‘package trips’ from the place of origin to the destination, to ‘guaranteed smuggled entries’ (“Garantieschleusung”).

to parameters like supply, demand and desired ‘comfort’ with surcharges for greater rapidity or risk⁷. The emphasis of the business relationship is on the ‘satisfaction’ of the customer in the hope of ‘recommendation to others’ or a continuation of the ‘business relationship’. The services are provided and the commitments fulfilled to a large degree, i.e. not keeping their part of the bargain is beyond the agencies’ control. The sanctions taken against those failing to keep up the payments are comparable with those of respectable credit institutes to get hold of money owing to them (e.g. seizure of goods). The *criminal network* is at first glance broadly similar to the commercial. However, here the emphasis is on the interests of the agencies, organisation or those behind the scenes, i.e. the prices are in part exorbitant, the services promised are intentionally not provided by the network agents themselves or customers are consciously deceived from the beginning of the ‘business relationship’ about aspects of the job hire or offers made (e.g. in that contrary to the known facts legal employment is promised or prostitutes are hired as “hostesses”). Sanctions against persons failing to keep up the payments include threats (and actions) against body and life of the ‘customers’ and their dependants.

These networks can more or less overlap depending on migration group, person, context or phase of migration⁸. For ‘illegal’ migrants to or in Germany networks are of greater importance than elsewhere in the European Union on account of the especially strict (police) controls (both at the borders and within the country). Private networks play the decisive role in conveying information between the country of origin and the target country as well as providing initial aid in adapting to the target country⁹. In the sector of commercial and criminal migration and labour provision structures, commercial business methods appear to dominate at present: even numbers of providers with a criminal background behave towards migrants in a more ‘customer-orientated’ way, because they know that satisfied customers will recommend ‘their’ agency, organisation or network. Competition for market share in the ‘trafficking-in-migrants’ business is however becoming increasingly tough¹⁰. Equally the ever-stricter controls at the external borders of the European Union favour criminal or Mafiosi groups who are most likely to have the contacts (e.g. to corrupt officials in the Border Police, access to bogus legal papers) or the technical accessories (night observation equipment, equipment for listening in on walkie-talkies) enabling them to evade border security measures.

2.4. Problematic developments since the end of 1996.

‘Illegal’ interviewees across the board state that there has been a distinct deterioration in the employment situation especially in the building industry, where the majority of ‘illegals’ in Leipzig seems to work. There is general agreement on the indicators: ever lower wages, ever

⁷ E.g. size of the group, being especially noticeable on account of colour of skin or probability of being caught on account of increasingly strict controls.

⁸ Whether a network has a commercial or criminal background is something the migrants usually notice only once it is too late and they can no longer escape: for instance if they are unable to pay back loans, outstanding debts for a ‘border transit’ or fees agreed for organising jobs.

⁹ ‘Bridgehead migrants’ are of particular importance for private migration bridges, i.e. persons who are already established in the target country. As far as the role of commercial or criminal networks is concerned there is an important further difference between refugees and labour migrants: while service providers for refugees (who see no alternative to leaving their homeland for reasons of survival) at most *steer* the migration process, in the case of labour migrants, for example through hiring, they can be the *precipitating* factor in migration.

¹⁰ The International Organisation for Migration and the Federal Intelligence Service estimate the world wide turnover in the „human trafficking business“ to be DM ten billion, other estimates range up to DM 120 billion.

shorter periods of employment and increasingly frequent withholding of wages. An important reason for the deterioration is first the continuing flow of ‘illegal’ migrants, although demand for the cheapest labour has contracted with the worsening slump in the building trade which began after 1994. Then there is the increase in controls on the part of the state authorities and the generally poor morale regarding payment in the building industry in Eastern Germany. While wages are still being paid for the top workers among the ‘illegals’ (say, for skilled workers with knowledge of the language) which approximate to those of German workers in the black economy (15 to 20 Marks per hour), general wages nonetheless fell to well below 8 to 10 Marks an hour in some instances. The question being how often they are being paid or whether they are being paid at all: increasingly there are cases of the ‘boss’ doing a ‘disappearing act’ at the end of the work project with the money owed. Increasingly, according to one ‘illegal’ interviewee, they are spending a third of their time working, a second third looking for work and the third part trying to collect their unpaid wages. Sometimes the last remaining option is a call for help to the “collection brigades” of the Mafia. However German employers and workers, too, have come to appreciate the latter’s efficiency, should they have to spend some time chasing after money owed to them in vain.

The results of these developments are as follows: Firstly, more and more labour migrants who had actually only intended their stay to be temporary are being forced to remain permanently. Apart from being increasingly absorbed by work, looking for employment and getting hold of their pay, they cannot afford to take a “holiday break at home” – not least because their place in Germany would immediately be taken by one of the “Newcomers”. Permanent return to their country of origin is out of the question on the other hand because the situation there will have worsened since their emigration, in that their former jobs have since been taken up by other workers, or because making a new start back home would require money (to set up a business, to bribe employers, administrative officials and/or criminals) which one does not at present have available. Secondly, the connections with those back home become increasingly weakened, because these contacts are not being (cannot be) nurtured. This in turn makes the ‘illegals’ receptive for the “plus” in quality of life which even an irregular life in Germany offers in comparison with the country of origin¹¹. Thirdly more and more ‘illegals’ feel compelled to commit criminal acts in order to be able to survive at all (see below 3.3.).

3. DISCUSSIONN OF CENTRAL RESEARCH THESES

3.1. Thesis 1: Among ‘illegals’ there are also refugees in the sense of the Geneva Convention who no longer feel protected by German asylum law.

¹¹ From an interview summary: The interviewee has

not regarded the limitations to which he is subjected here as discrimination. That’s the way German law is, that was his status and those his options. He could move about, work and reside freely, felt safe and had friends. That’s not the way it is back home. It’s not the legal regulations, but the situation in actual fact which takes away freedom. ‘In the Ukraine I feel less free because one constantly feels afraid of others.’

With increasing familiarity with the social and consumption habits encountered in Germany, the readiness through returning to the home country once again to face legal insecurity, corruption, Mafiosi structures and general violence diminishes for a considerable number of migrants. Even if things are going badly for them in Germany they are inspired by greater hope of ‘making it here’ than when they think of the well-known, considerably worse conditions in the country of origin. Pessimism, as one interviewee put it to the author, is a characteristic of the rich:

‘People like you are pessimists. You’ve got a flat, work, money – you can lose that. Whoever has nothing is an optimist. He thinks: It’ll work out somehow.’

In the following reasons will be presented to account for the fact that among the ‘illegals’ persons were encountered who, although they had fled from persecution and a threatening situation, did not submit an application for asylum or were unable to submit one, who were not granted asylum status or who from being asylum seekers went underground.

3.1.1. Non-acceptance of asylum applications

With the change in asylum law in 1993 Germany surrounded itself with a circle of “Safe Third Countries”. The legislator assumes that the standards of the Geneva Convention are applied in these countries and that refugees could (also) apply for protection from persecution there. Since then the Federal Border Police (BGS) in particular put a great deal of effort into establishing the route of entry when they apprehend refugees at the national borders, in order to effect an expulsion or deportation back to the third country previously passed through. According to the BGS only a very low percentage of migrants submit an application for asylum at all when apprehended (about ten percent). However, the author came (based on his researches) to the conclusion that the asylum applications of a number of persons, despite the clear evidence of formal submission e.g. in either files or copies, were either ignored or not correctly treated by the BGS or other authorities responsible for accepting and processing such applications.

3.1.2. Problems connected with the asylum process

The research project proves moreover that the present asylum process is not appropriate for the processing of applications from traumatised refugees, such as victims of torture or rape:

- a. Because of experiences with the authorities back home, the asylum hearing brings back associations with the interrogations back home. Refugees become tense and react to the stress of this situation with partly unconscious blocks. This means that even if they have made up their mind to give an open, objective account with no frills they are unable to disclose anything¹².
- b. For the same reason refugees believe that in Germany good behaviour (i.e. agreeing with the official conducting the hearing, not objecting, should he or she put discernibly leading or catch questions) and flattery (e.g. praising the beauty of Germany) will improve the chances of getting asylum status as a “reward”.

¹² Weber/Graessner come to the following conclusion in their study on „Dealing with torture victims in the asylum process“

“From the discrepancy between the practice of the Federal Office (for the Recognition of Foreign Refugees, translator’s note) and the assessments of the Centre for the Treatment of Victims of Torture it may be concluded that a torture trauma of which there is clear evidence ... remains for the most part meaningless in the case of 90% of rejected refugees... It becomes evident that those ten cases (from the sample on which the study was based, author’s note), which were recognised by the Federal Office as ‘credible’ and as having been ‘politically persecuted’, only make up a quarter of those asylum seekers, whom specialists have shown to exhibit clear, empirically-provable evidence of torture trauma...The figures and facts presented here are a first approach to the question of whether the process is characterised by the appropriate care and the fairness to be demanded. Our summarising judgement has to be that there is reason for serious doubt.” [p.30-32]

On being asked about his hearing, one ‘illegal’ interviewee thought for instance,

that it was terrible. Everything reminded him of the interrogations back home. He sat with his back to the door and every time that it opened he froze completely because of the experience that blows could follow.

- c. The thorough repression of painful and shame-inducing experiences is kept up in such situations because they experience the pressures associated with them once again. Thus they evade the issue by giving descriptions of ‘general problems’ in the country of origin.
- d. For most refugees the difference between politically-motivated persecution and persecution for reasons irrelevant for asylum is incomprehensible; it is accordingly difficult for them to adjust and structure their presentation accordingly¹³.

Should nothing be added later to the statement that was officially recorded at the hearing, then the application is deemed (manifestly) unfounded. Should the application later be enlarged upon or corrected then it is derogated as an “enhanced presentation.” The result in both cases: the application is rejected.

Further reasons for a negative ending to the asylum proceedings of ‘illegal’ interviewees were: the following of well-intentioned but false advice of compatriots, poorly-qualified interpreters and deciding officials at the federal office, unjustified confidence in the care of voluntary helpers, deadlines for the submission of written material which were too short, “mistakes” in passing on mail on the part of the asylum seeker hostel administration, or the withdrawal of the application because the person concerned saw no alternative to a move out of the hostel to which he or she had been assigned.

How ‘relative’ the asylum procedure can be is proved by the example of one interviewee: When, after the refusal of his first application and a lengthy illegal stay, he submitted a second application under another name, he was recognised as refugee according to paragraph 51 of the Aliens’ Law (AuslG). While he presented the same reasons, on account of the knowledge gained through his experience of the first proceedings he could prepare himself better for the hearing. Equally the federal office official making the decision was evidently more competent to make a judgement than his predecessor in the first hearing.

3.1.3. Illegality as a result of fear of deportation

The diminishing preparedness of the Federal Office for the Recognition of Foreign Refugees or Administrative Courts to grant asylum-applicants refugee status or prevention of deportation as well as the increasing determination of authorities to execute deportation orders is causing more and more people to go underground ‘in good time’ and with thorough preparation. The decisive factor in going underground does not necessarily have to be an acute threat. For instance it is sufficient for those concerned to observe developments in their immediate vicinity (or to have heard of an incident elsewhere), which seem to them to reveal parallels to their own “case”. A panic reaction following this can lead to a person going underground, even if this would not at that moment have (yet) been necessary. As a rule, three reasons are given for going underground:

¹³ The following extract from the written rejection of an applicant living in Leipzig illegally later illustrates, how difficult it can be for a migrant to prove that his persecution was also of relevance for asylum:

“The behaviour on the part of the Bulgarian authorities supposedly caused by the applicant did not cross the toleration threshold dividing political discrimination not relevant to asylum law from political persecution. Short term arrests, house searches, interrogations, intimidation and threats on part of state offices in the course of enquiries on account of a presumed opposition to the regime do not as a rule reach the required intensity justifying asylum. That in the case of the applicants it might have been different, or that there is fear of it being so in the future, cannot be determined from their own presentation.”

- a. Even if ‘the Germans’ think that they (i.e. the migrants) have no problems back home at the moment, they know better through the people they know.
- b. Even if it really is a little better in their homeland, the broader social context is still characterised by great instability. Thus: what guarantee do they have that it will still be as peaceful back home tomorrow?
- c. What are they supposed to live from back home? Their dependants and relatives at any rate are in no position to feed them.

How justified fear of deportation can be is proved by the cases of Mohammed Islami (Kosovo Albanian who was murdered by Serbs after his deportation) as well as Mehmet Ali Akbas and Ahmet G., who, following their deportation back to Turkey, were tortured so badly that the German authorities agreed to a return to Germany.

3.1.4. Deciding not to submit an application

A number of refugees decide from the beginning not to submit an application for asylum. Word gradually gets around of which ethnic groups generally have little chance of recognition or of which reasons for flight are not regarded as relevant for asylum in Germany. A further reason is revulsion against the dependency-enhancing “ancillary measures” of the asylum procedure (payment in kind/food parcels, central accommodation a long way from friends and relatives, limited freedom of movement, ban on working etc.). Above and beyond this refugees want to prevent their presence in Germany becoming known by submitting an application: for most refugees, once they have submitted an application, there is a considerable likelihood of refusal followed by expulsion and threat of deportation. On the other hand for those migrants who have access to supportive networks there is a comparatively good chance of success, if they ‘just give a try’ to living in Germany. Ultimately the fact that many refugees feel safe subjectively from the moment of their actual arrival in Germany has to be taken into account. For many it is thus true to say: whoever has managed to get to Germany lives safer and better even with an illegal status than in their country of origin.

3.1.5. Result

“Push” factors (like persecution and war) or “pull” factors (like the availability of a ‘Migration bridgehead’ or the hope of other options for survival or making a living) are more decisive considerations for a refugee leaving his own country for Germany than any knowledge he may possibly have of a tightening German asylum law that came into force in 1993. It certainly is well known that the official numbers of asylum seekers coming to Germany is going down. The author proceeds from the assumption however, like experts among his interviewees, of a continuing large flow of refugees to the EU states (though it can scarcely be quantified any more)¹⁴. One result of the asylum reform is undoubtedly, that ever fewer refugees are entering the complicated asylum procedure and that therefore state expenditure for these people has gone down. The burdens have on the other hand risen for the

¹⁴ To estimate the number of unreported cases of ‘illegal’ immigrants, the number of those migrants who have been ascertained as entering Germany illegally is taken unofficially and multiplied by a factor of between 3 and 5 and used as a gauge for those who ‘slipped through’. If one takes as the basis for multiplication the ascertained number of illegal entrants of 35.205 for 1997, a number of unreported cases of between 105.000 (factor 3) and as much as 175.000 (factor 5) of ‘illegal’ immigrants has to be added to the number of registered asylum applicants (104.000) for 1997. The total number of ‘illegal’ migrants living in Leipzig as estimated by interviewees and the author would be ca. 8.000 persons. For the whole of Germany one may assume a number of over a million.

compatriots of the refugees, German helpers and the contact persons for the ‘illegals’, for the advice centres of the charitable organisations as well as those doctors and hospitals prepared to treat people in need ‘on the side’. In other words: the expense of caring for refugees was ‘privatised’.

3.2. Thesis 2: The employment of ‘illegals’ is, at least in the building trade, under current (international) conditions virtually unavoidable and indeed in some respects macroeconomically useful. Moreover in comparison with other illegal practices it is of less significance.

3.2.1. *Direct damage*

In public discussion the statement can frequently be heard that the presence of ‘illegal’ immigrants does damage to the German host society. As far as this claim is concerned neither supporting nor contradictory proof can be presented. This is primarily because it is fundamentally impossible to work out the number and the forms of employment of those ‘illegals’ residing in Germany or just to get a reliable estimate on them. There are just two areas in which *points of reference* can be found:

The first that can be cited is *hospital expenses*. Out-patient or on-ward treatment in hospital becomes necessary if ‘illegals’ are involved in road or work accidents or if they need hospital treatment as the victim of a criminal act. The costs of such treatment have to be borne by the social security authority (in Leipzig the benefits office), if in the case of a work accident no employer (or of a criminal act no perpetrator) can be found to be responsible. In 1997 the expenses in this sector in Leipzig were DM 262.623 (1996: DM 279.680)¹⁵. Apart from medical expenses no sums are paid to ‘illegals’ by the benefits office. A further cost factor directly related to the presence of ‘illegal immigrants’ is detention and the deportation of those ‘illegals’ under arrest and due for expulsion. The local Aliens Authority are just left with the *air travel and interpreters’ expenses*. For Leipzig in 1997 these amounted to DM 89.020 for a total of 229 persons (1996: DM 79.101 for 135 persons)¹⁶.

Further publicly accountable expenses do not arise in Leipzig. In the first instance, the resources in personnel (employees at the benefits office, aliens’ authority or in prison) or material (hospital beds, prison places) are available irrespective of the ‘illegals’ presence, secondly, the proportion of their usage occasioned by ‘illegals’ is negligible.

3.2.2. *Context to determine the damage*

It was more complicated examining and measuring the indirect damage or utility for the German host society, i.e. whether and to what extent the presence of ‘illegals’ indirectly threatens or destroys German jobs. An analysis of this kind is only comprehensive if it covers the origins of illegal employment of foreigners and (related to this) checks, whether other illegal practices arising out of the same causes do not inflict much more damage to society

¹⁵ Costs arising are of course different from case to case and range from brief emergency treatment in the out-patients department to expensive stays in psychiatric homes.

¹⁶ However, it must be borne in mind that the attempt is made to charge the deportee as far as possible for the costs arising. Should this not be possible during the deportation, there is a further opportunity if the person concerned wants to enter Germany again: before a visa is handed out he is requested to pay the expenses he “caused” during his previous stay.

than illegal employment of foreigners. A reasonable analysis of this type should only be carried out in specific employment sectors, because their characteristics, e.g. occupational profile, are too different to permit a generally valid analysis. This is why the research project study was confined to the Leipzig building trade. In the process the following factors among others were found to be the ones determining the actors' behaviour in practice (workers, employers, clients and creditors):

Deregulation and wages: Because of the abolition of preferential regulations in allocating commissions in 1996, firms from all over Europe are now able to apply for contracts in Eastern Germany. Wages and supplementary wage costs for building workers are considerably lower in other European states than in (East) Germany. As the building trade continues to be a labour intensive branch, the applicants from outside Germany have a great advantage in competition with German firms. On account of *diminishing investment* and available *over-capacity* from 1995/96 cut-throat competitive undercutting began between the building companies in East Germany. Because of a *lack of financial reserves and capital of their own not being available* many companies live from one day to the next. Should bills not be paid either unintentionally (because the client was declared bankrupt) or on purpose (by 'discovering' failings or simply cheating), this can mean the 'end' for a company. For reasons of survival clients receive tenders which are beyond the bounds of company accounting logic. For their part the *clients* know the pressures on many companies compelling them to accept any commission available and exploit this plight inasmuch as the commission is made dependent on 'discounts' and 'reductions'. In order to make ends meet nonetheless after receiving the commission attempts are increasingly made to compensate foreseeable losses through illegal practices. A common method of masking this is by organising the building process through *sub-* or *post-contractors*.

Moonlighting of German workers, illegal employment of foreigners, avoidance of tax and of payment of insurance contributions are increasingly common methods in this cut-throat competition of companies in their struggle for survival. In addition there are the criminal persons and organisations who worsen this tense situation with wilful intent by their behaviour (e.g. by setting up bogus companies, getting subsidies under false pretences or "organised trade in workers")¹⁷. This was the background to the attempt to work out the indirect damage and utility of employment of foreigners.

3.2.3. *Indirect damage and utility*

Interviewees among the experts were in agreement on refusing to give an estimate of the damage caused to the German host society by the employment of 'illegals'. It was always pointed out that by their very nature things that go on in a hidden world cannot be recorded or assessed. This limitation would also forbid the estimate of damage which is caused to the host society by moonlighting, fiddling benefits or economic crime. Nonetheless there are extensive figures on this, the legitimacy of which can at least be debated¹⁸. This makes evident that even

¹⁷ As a rule however illegal employment of foreigners is not conducted within 'organised criminal structures'. If even an 'outsider to the branch' like the author can find out about people and places offering these services within a short time, then this is certainly many times easier for the 'insiders'. Interviewees at the Leipzig Employment Office, too, consider individual employers who "use foreigners here on the building sites, (in order) to save themselves all the supplementary wage costs" a promising point of reference for a strategy to combat illegal employment of foreigners.

¹⁸ Because of the need for brevity and the complexity of the sources it is only possible to give a few indications of the situation in the year 1997 at this point:

experts feel that in the area of illegal immigration and employment one is on even more uncertain ground than in the aforementioned sectors. Whether and to what degree the employment of ‘illegals’ indirectly endangers German jobs can at any rate not be stated with any degree of certainty. Thus the author found his researches to confirm the findings of other studies which came to the conclusion that illegal employment of foreigners “does not necessarily have to lead to higher unemployment: possibly there is just a replacement of domestic moonlighting by that of foreigners.” [Vogel:6]

Most of the author’s interviewees viewed illegal employment of foreigners however as to a greater or lesser extent being of indirect use to the German host society. For instance: first of all *employers* profit from the employment of ‘illegals’, whether by succeeding in keeping their business competitive and losses to a minimum or by unashamedly enriching themselves. Moreover, the claim appears plausible that the employment of ‘illegals’ under the given economic and structural conditions is a well-known and acceptable means for *workers and the trade unions* of being able to maintain German workers’ job and wage levels¹⁹. *Public and private clients* profit from the low prices made possible by inclusion of ‘illegals’ in the carrying out of building projects. Moreover the employment of ‘illegals’ helps building contractors to earn the returns required by *creditors*, or after payment of interest (and interest on the interest) at least to be able to end the business year ‘in the black’. The retail trade profits from the consumption of ‘illegals’, the flat market from the rents and the state from Value Added Tax. In a word: a whole series of arguments indicate that the employment of ‘illegals’ is in some respects useful for the economy as a whole. [*ibid*, like Jahn or Jahn/Straubhaar]

3.3. Thesis 3: The public discussion on ‘criminality’ of ‘illegals’ is for the most part polemical, because it makes scarcely any distinction between (A) Entry and residence without permission, (B) Offences committed against the background of needing to survive and for the lack of Alternatives and (C) Targeted, serious crime.

Moonlighting: The Leipzig Municipal Office for Enterprises imposed fines to the value of DM 658.000 for moonlighting (January-October 1996: DM 507.000). Across Germany estimates of the damage caused to the host society by moonlighting ranged from DM 250 billion (Federal Ministry for Employment and Social Affairs) and a trillion Marks which is equivalent to a quarter of the total German economic performance (Prof. Cassel, Duisburg). [Süddeutsche Zeitung, 6.3.1998]

Wrongful receipt of benefits: The Leipzig Employment Office followed up suspicions of wrongful receipt of benefits in 1.575 cases (1996: 1.064), the volume of warning payments and fines doubled to DM 683.740 (1996: DM 314.680). Across Saxony the State Employment Office arrived at a figure of DM 85.158.721 for wrongful receipt of benefits.

Economic crime: The total damage arrived at for economic crimes in Leipzig also doubled to DM 123.443.250 (1996: DM 56.472.520). As far as the situation at Federal level is concerned, a study commissioned by the Federal Criminal Office concluded that “for economic crime altogether the ... sum of 300 billion Marks as the lower limit” can be assumed [Wittkämper:33f.].

¹⁹ Djajic is quoted in Jahn/Straubhaar as follows:

“In the short run, more illegal workers employed in the underground economy lead to an increase in the wages of the skilled work force. The wage effect for local unskilled workers depends on whether illegals are complements or substitutes for them. In the long run, there is no change in wages if both natives and illegal immigrants are employed in the shadow economy. Illegal immigrants are simply absorbed. If only foreigners are employed, wages for skilled and unskilled natives increase. Thus, this model specification illustrates the possibility that ‘all native workers may benefit from illegal immigration as the inflow of foreign workers enables them to enjoy larger scarcity rents’.” [Footnote 2, p.9].

And Jahn thinks quite rightly: “Were the trade unions really completely against illegal employment, then they would be able to give valuable tips on conditions such as these, which they very rarely do however” [p.7]. Here it has also to be borne in mind however that workers and trade unions are subjected to massive pressure by certain employers.

Domestic and security policy-makers in particular warn against an ‘import’ of crime connected with illegal immigration, which they contend has to be tackled resolutely. In the author’s view however it is reasonable in the present context to consider various non-legal actions bearing the following factors in mind:

- a. The intention and motivation of the offender,
- b. The causes on which his actions are based,
- c. The level of damage done to individual persons or the host society as a result of his action.

In the author’s view this gives rise to the following levels of offence which have to be kept distinct and considered in a differentiated way.

3.3.1. Levels of offence

‘Criminalisation’ by national law: Entry, residence or taking up work without permission are offences under German law without the ‘illegals’ themselves being able to discern in their doing an action meriting punishment: to begin with, it is unknown in the countries of origin of most interviewees that such actions are punishable offences. So they do not view the intention behind their actions (safety from persecution or finding work for their families) as worthy of punishment but as in accordance with human rights; finally they argue that their work creates value for the German host society from which the Germans would ultimately profit²⁰.

Criminal acts in order to survive: A clear awareness of guilt can be found among ‘illegals’ if they feel themselves forced to commit criminal deeds in order to survive (such as stealing food). In these cases they nonetheless point out the desperate situation they are in, such as not being able (any longer) to find work or not having been paid the wages owed to them. They remind one of the lack of alternatives, such as not having an option via the police or courts to get the money owing through legal proceedings, a lack of bodies that could give them the money in advance until they are paid the wages or that there are limits to the strain friends and acquaintances can be subjected to²¹.

²⁰ Such offences are predominant in the ‘criminal statistics’ of non-Germans. From the *Saxon Police Criminal Statistics (PKS) of 1997*: “57.4% of non-German suspects were recorded in Saxony exclusively for offences against the Aliens’ Law/Asylum Procedures Law“ [p.73+65]. And the *Leipzig PKS (1997)* writes on the two largest non-German groups of offenders in Leipzig: “In the case of 270 Ukrainian suspects the offences concern Aliens’ Law or Asylum Procedures Law, that is 73.6%... In the case of Polish suspects the majority of offences are equally against Aliens’ Law/Asylum Procedures Law” [p.18]. These tendencies also continued in 1998: At the press conference presenting the PKS for 1998, Saxon Minister of the Interior Hardraht attached “great importance to the conclusion that ‘actual crime’ had gone down some 1,5%. ‘The illegal border-crossings have slightly spoiled the statistics’, said the minister ... But general crime has also gone down slightly in the border area, too. ‘Foreigners, in particular those coming to us illegally from Kosovo, commit virtually no criminal acts’, said Hardraht” [LVZ, 17.3.1999]. In other words: only criminal acts specific to foreigners, such as the rise in the number of illegal border-crossings and offences against the Aliens and Asylum Procedures Law at record levels (33.731 offences) have led to recorded crimes in Saxony rising altogether by 0.3%.

Viewed on this background, the following extract from an interview summary is typical for the attitude of the majority of ‘illegal’ interviewees. This person was aware,

that illegal residence and work are forbidden. But who care’s? He has no other choice. He would like to be here and to work here legally, but if the Germans don’t let him, like for instance the lady in the aliens’ authority in xxx, then it is the Germans who are forcing him to be ‘outside the law’.

²¹ Yet there definitely are legal instruments in which the rights of ‘illegals’ are set down: Most worthy of mention in this context is the “International Convention for the Protection of the Rights of Migrant Workers and their Families”, which was adopted by the UN General Assembly in 1991. But this Convention was not signed by Germany. The reason: the Federal

Criminal deeds which are in an ethically grey area are those which can be termed “*offences to tide over a temporary crisis and those which are a substitute for work*”. In this case we are dealing with criminal acts which are not only supposed to assure one’s own immediate survival but are committed in order to “earn” or to save money until a salary has been paid or a new job found (e.g. theft, burglary or receiving stolen goods). Most interviewees who committed these offences justified them with the necessity of having to keep up money transfers to their dependants in their land of origin²².

Clearly distinct from the previous categories is the committing of *crimes for personal enrichment*, i.e. criminal acts in which the primary focus is on increasing one’s own wealth. These can include serious crimes committed by gangs (car break-ins, burglary), but also forms of economic crime and trade in human beings by Mafia groups. The last-mentioned in particular are extremely dangerous because in pursuit of their aims they either tolerate or consciously aim at the corruption of democratically-legitimised institutions and the weakening of the legal economic and financial system²³.

3.3.2. RESULT

The composition of the samples gathered by the author proves – as do the assessments by ‘illegals’, contact persons and experts – that the proportion of offenders in the first three

Government thought it to be “basically unnecessary and the substance dubious on so many points”, that a ratification “will not be considered”: [Minister of State Kraus in: Erzbischöfl. Ordinariat Berlin (Ed.):16].

On committing criminal deeds in order to survive one ‘illegal’ interviewee stated:

“Everyone has a motive and a reason for what he does. If the Germans knew how we have to live, they would understand us. Many of us didn’t steal before we came to Germany. We are ashamed that we live from stealing. But we learnt it in Germany.”

And another confirms:

“The important thing is that the background and motivation of the “perpetrators” become known to the Germans, so that the bad name that all ‘illegals’ have can be put into perspective.’ The interviewee can understand Germans’ anger: “The Germans who get robbed are ultimately not to blame for the situation which causes people to do this.”

²² The police authorities too know, for instance as regards the motivation for committing criminal acts on the part of the infamous ‘Rumanian gangs’: They “are ... primarily concerned with getting hold of ready cash” [BMI 1997:15].

An interviewee who occasionally worked with the ‘gangs’,

made frequent and repeated efforts to find work. But he was always told that it was impossible without papers. As he did not want to be dependent on others he began to steal and pinch things... But: even after he had gone off the straight and narrow he continued to try and find work. Not least on account of the fact that his criminal activities brought in less money than when he was working. By pinching he got DM 2.500 in three months at the most. Thus he broke off his ‘serial robberies’ whenever he had a little money and tried to find work again. The ‘standard’ for him was DM 1.500 – he could live from that for a while. When that was used up he thought up some new ruse to fill the coffers for his personal needs.

²³ The presence and activity of such highly dangerous groups acting across borders can certainly be confirmed by the findings of this research project. However the principal actors in this area can scarcely be compared with the broad mass of ‘illegals’. For instance one ‘illegal’ interviewee remarked mockingly:

‘All Germans are afraid of the Mafia. Yet the crime organisation structures and the structures of labour migrants are hardly interconnected. They even enter the country quite differently: the protection Mafia have the money for a year’s visa, they have good flats and an address.’

The ‘average illegal’ distances himself strictly from such criminals. He, too, is of the opinion that they have to be combated urgently as their activities damage the reputation of the ‘good ones’.

categories as compared to criminals with intent in the narrower sense (i.e. category 4) is in the region of between 95:5 and 90:10. The papers and statistics evaluated in the administrative offices can equally be interpreted in this sense, that is they do not contradict this assessment. In other words: the overwhelming majority of ‘illegals’ ‘only’ offend against residential and labour regulations and otherwise try to live and work in Germany in a law-abiding and inconspicuous fashion. They only commit other offences (in the short term) if they feel compelled to and no other alternative is available to them. Nonetheless it may be assumed that the proportion of such criminal acts will rise, if working and wage payment conditions continue to worsen for ‘illegals’ or if dependency on professional entry facilitators increases on account of intensifying European measures of exclusion.

In this context the degree of violence within ‘illegal milieus’ has to be mentioned, too. An important reason for this is alcohol – a preferred method of dealing with stress. Many incidents which attract attention in police reports or the media can be traced back to this (and not, say, the conflicts between various gangs or Mafia groups). Equally labour migrants or refugees are threatened, robbed or blackmailed by criminal groups from among their own compatriots without being able to defend themselves. These once again are events which tend to go unnoticed by the host society, all the more so because the Mafia groups in particular consciously take care not to attract the attention of the German security forces or public too much – this would be “bad for business” for them²⁴.

4. EVALUATION OF MEASURES TAKEN HITHERTO

4.1. Measures to control immigration

The following measures are being taken by the state to reduce or control (illegal) immigration:

- a. Measures intended to deter from migration or to reduce the attraction of migration,
- b. Making crossing of borders more difficult,
- c. Fighting the trafficking of migrants and
- d. Fighting the origins of migration

Whether or to what extent deterrent measures or measures reducing attractiveness (a.) are effective are hard to assess for the reason that the author’s interviewees are manifestly among those who did not allow them to influence their decision to emigrate. However, in 2.1. and 2.2. it has already been concluded that fear of deportation influences refugees more than labour migrants. For this reason the other measures for the control of immigration (b.-d.) will be looked at more closely at this point.

²⁴ An ‘illegal’ interviewee on the presence and strategic approach of the Mafia: “I know that they don’t touch the indigenous population... They take great care to behave themselves. They simply need a base here, as I understood it, so they can wash their money from the drugs.” This seems to pay off: while the criminal investigation authorities devote great energy to fighting gangland crime which the public both see and feel, nothing like the same effort is put into exposing and combating invisible and ‘intangible’ economic and financial crimes which are considerably more damaging to society. A police official opined:

‘You see for yourself: This is using a sledgehammer to crack a nut while the big fish are allowed to get away. But it’s like this: the main thing is that the man in the street can sleep peacefully at night. If his holiday home or his house are threatened, he starts creating hell. Then a few more patrol cars are sent out on the street and that’s the end of the matter. Invisible crime (in this case talking about economic criminals like Jürgen Schneider, the author) which harms society much more is tolerated alongside this.’

4.1.1. *Making crossing of borders more difficult*

Measures: As part of the process of increasing integration of the European internal market measures for the control of immigration are being harmonised, such as rules on the granting of visas or the conclusion of readmission and repatriation agreements. Above and beyond this Germany is concluding bilateral co-operation agreements with its surrounding neighbour countries, increasing the powers of the Federal Border Police and the *Länder* police forces as regards the relevant enquiries and controls and promoting the use of border security technology. All of this entails not inconsiderable levels of expenditure: thus the budget of the Federal Border Police has risen from DM 1,9 billion (1992) to DM 3,05 billion (1997)²⁵.

Effects: The study comes to the conclusion that as a reaction to these measures the migration behaviour of ‘illegals’ at the Eastern border above all has changed. The number of illegal border crossings of individual persons appears to have fallen. The trend is moving toward groups who try to cross under the instruction of an experienced migrant or who make use of the services of border crossing facilitators from the first. Equally an increase in the number of bogus legal border crossings can be discerned. All in all however the interviewees conclude that the measures taken in this area have done little to change the quantity of migration flow and that the expenses for border crossing (for experienced migrants) have not risen appreciably.

4.1.2. *FIGHTING THE TRAFFICKING OF MIGRANTS*

Measures: Particular attention is being paid to fighting gangs specialized on trafficking-operations across borders, whereby the official quarters do not as a rule distinguish between persons and organisations operating on a commercial or criminal basis. Over and above the measures mentioned in the last section it was primarily the relevant penalties which were raised and efforts were made to improve cross border co-operation between the security authorities.

Effects: The measures have tended to be less efficient. Firstly considerable proportions of the population living on both sides of the border appear to be co-operating with groups of this sort. Secondly on account of the ethnic homogeneity of these groups the security forces scarcely possess ‘insider knowledge’ of their structure, plans or intentions, i.e. it is very hard to get informants on the inside or to win over witnesses willing to talk. A third factor hindering criminal investigation is that leading figures in structures of this kind keep outside Germany and in part enjoy the highest degree of protection at their place of habitual residence. Successes on part of the security authorities are as a rule confined to the arrest of ‘pawns’ who were used or pushed ahead by the gangs and the real powers behind the scenes for especially risky operations and who can be immediately replaced.

4.1.3. *Fighting the origins*

Measures: In 1990 the federal government concluded in its “Refugee Conception for the Federal Republic of Germany”:

²⁵ As a comparison: the total budget for the Federal Ministry for Economic Co-operation and Development in the same year (1997) was DM 7,6 billion.

“The origins of flight movements are to a large extent identical with the great political questions of our time: economic underdevelopment and overpopulation, ecological crises, violations of human rights, intolerance, use of violence, war and civil war. Thus it is self-evident that a policy which aims to solve these problems is always at one and the same time fighting the origins of flight... For the Federal Republic these considerations mean ... confronting the world refugee problem and fighting its origins more consistently than hitherto.”[p.14ff.]

Effects: Nine ministries and the Federal Chancellor’s Office were involved at the time in evolving this concept. All were written to and asked about the consequences of this conception for their practical work. With the exception of the Federal Ministry for Economic Co-operation and Development nobody wanted (or was able) to state their position on this. However *de facto* developments in allocation of resources would indicate that fighting the origins of migration is of none too great a significance either for Germany or for the European Union²⁶.

4.1.4. Result

Illegal immigration can, with the methods employed hitherto, be regulated at best. It can scarcely be checked, let alone brought under full control²⁷. Even a new wall or fence similar to the kind of border fortification between Mexico and the USA could not stop the flow of ‘illegals’ to Germany or into other European Union countries. Even a bulwark of this kind might be evaded, say via the sea route or by resorting to bogus legal papers. An interviewee reinforced this: Their coming has

‘nothing to do with law, injustice, morality or values, but with survival and care for the family. And even if you block up the border with concrete, we’ll find another way – perhaps across the sea.’

4.2. Measures to fight illegal employment

In order to be able to judge the efficiency of measures taken to fight illegal employment of foreigners, the author at first examined the options available to ‘illegals’ and employers to camouflage irregular forms of employment (e.g. false papers, ‘cooking’ the account books, agreed camouflage stories, setting up bogus companies and the like). Further weak points

²⁶ Certainly for years there has been the demand and the promise to raise development aid to 0.7% of gross domestic product [e.g. in BMI 1990:17]. Germany is a long way from reaching this proportion: development aid as a proportion of gross domestic product was 0.33% in 1994, 0.31% in 1995 and in 1996 0.33% again. In this context clause 56 of the *EU Strategy Paper on Migration and Asylum Policy* of July 1998 does however give cause for hope. There it is stated: The

“expansion of development aid and economic co-operation with the main regions of emigration is indispensable. But one should not entertain the illusion that there will be a dampening effect on emigration in the short term; possibly the opposite can be the case: in an initial phase an economic upturn can in certain circumstances lead to increased emigration from the conurbations of the Third World. But in the medium term – and here this means just a period of a few years – the volume of emigration sinks considerably.”

²⁷ Some more figures may serve to illustrate the dimensions which have to be borne in mind in this context: in 1995 ca. 907 million, in 1996 914 million and in 1997 ca. 898 million entries and exits were counted on the external Schengen borders. Full members of the Schengen-State community hand out between five and ten million short-term visas annually, altogether there are 200 residence permits in the European Union functioning at the same time as a substitute visa etc. In answer to the question as to what extent thorough control can be possible at all, a highly placed interviewee with the Federal Border Police (BGS) thought that controls within these dimensions have to “be random samples within the large mass.” Within the BGS they are aware that attempts at border control “in fact can only delay illegal entries”. As the annual report on border security for 1996/1997 stated, the number of those entering illegally in 1997 rose by 30% in comparison to the previous year. 1998 too gives evidence of a rise in double figures.

discovered in the course of research are the legal foundations for checks and police enquiries, personnel deployed and options for co-operation open to the authorities, available powers to act, 'advance notice' of checks etc. With this background the following conclusions have been arrived at:

The available resources are not adequate to deal with the dimension of the problem. The Leipzig controlling authorities were indeed able to raise drastically the number of control and enquiry procedures carried out as a result of the boost in personnel in 1996. For example: while the employment office only checked 10% of short term contract ("Werkvertrag") building sites in 1995, the average is now around 50%. But there are some 4.000 registered building sites altogether in the city alone to be checked, then the unofficial 'private' and 'back yard' building sites, those in the region as well as other places to be checked such as the 1.700 businesses in the catering industry in Leipzig. Beyond this in the author's view there should be increased controls in the evenings and at weekends. The fact that personnel levels in those offices working together with the employment office and the customs office (e.g. the aliens' authority, the police and the judiciary) have broadly remained the same has been a further inhibition – the hoped-for synergetic effects in co-operation have not materialised and so in many areas of enquiry and criminal investigation there have been work overloads and bottlenecks.

Particularly where wily employers are concerned the controls have had *too slight a deterrent effect*. Just two reasons may make this clear at this point: because of the potential checking options available to the authorities, particularly with increasingly short term use and employment periods of 'illegals', they can predict a fair likelihood of not getting caught at all. Thus employers (and their lawyers) are particularly aware of how to make use of the current legal framework and the personnel situation faced by the checking and criminal investigation authorities, so that even in the event of getting caught the penalties to be expected can still be 'worth it'²⁸.

The current fight against abuse is characterised by a *threefold deficit in terms of justice*:

- a. 'Illegals' are being more strictly controlled and have less chance of evading detection than German moonlighters.
- b. Delinquent workers can generally be found out more easily and made to pay more rapidly than can employers.
- c. Small and medium-sized enterprises can be more easily brought to justice and punished than their major employers and clients on account of the present legal position, although they were perhaps forced to make use of illegal employment practices specifically because of conditions imposed²⁹.

²⁸ All too often legal proceedings end with an out-of-court settlement which as a rule is well below the fine imposed by the employment office. Indeed there is a perceptible gap between the fines imposed by the employment office on employers and the actual sums paid to the regional employment offices and the courts. Thus for example in 1997 the employment office imposed penalty fines to the value of DM 4.093.461 (1996: DM 3.100.411), but of this only DM 1.083.254 (1996: DM 1.011.035) was paid. The seriousness of the situation is even discernible in the cautious formulation of the Leipzig Municipal Office for Enterprises in a written statement to the author: "The calculation of fines to be imposed was determined ... by the length ... of the terms of illegal employment. Securing proofs relating to this is a complicated process and increases (if at all practicable) the effort expended on enquiries considerably. In view of this it cannot be ruled out that in individual cases an offence may 'be worth it' despite punishment with a fine, because of the duration which cannot be proven."

²⁹ One has to be able to prove that major enterprises "knew or were culpably negligent in not knowing" that their sub-contractor was employing 'illegals'. But the legislator is at pains to concede to the major enterprises ("Hauptunternehmer") that the required efforts to check have to be "within reasonable limits": As regards the protective regulations of the Employee Transfer Law (AEntG) "the major enterprise will have already fulfilled its care obligation regularly if it gets the contractual partner to confirm in writing that working conditions are in accordance with §1 AEntG and that this will be required from

In addition, being found out means expulsion of the ‘illegal’ as an indirect result, which can threaten the existence of the person concerned and/or dependants. Employers on their part can avoid the “hardest indirect result of being found out” (thus expressed in their own view), namely being excluded from competing for public commissions, by dissolving their old companies and setting up a new (bogus) company themselves or through front-men.

At the end of the day however those responsible for the bad state of affairs regarding illegal employment of foreigners, according to an management interviewee at the Leipzig Employment Office, are neither the employers nor the workers:

“Q. Who actually profits the most from the illegal employment of foreigners? Of course the ‘illegals’ get money which they couldn’t at home – but are they the main beneficiaries of this employment situation?

A. I don’t see it that way. The main beneficiaries are the ones getting the building done.

Q. The clients?

A. Yes, the clients. Ultimately it is the clients who dictate the cheap prices – and I am making no exception of the public clients here. Those giving commissions in the public domain are in my opinion setting a bad example and passing the commission on to the cheapest tender.”

And later in the interview: but to make the clients responsible for their acts

“the options are simply too limited or completely non-existent. This is where the legislator ought to intervene in order to be able to fight illegal employment in all its forms in the building sector more effectively. However in my view this is precisely where action is lacking.”

4.3. Side-Effects of measures taken

The control measures which have been adopted give rise to a number of unfortunate side-effects. In this summary the following may be briefly listed:

- a. *More fatalities*: because of increasing controls, the risks and readiness to take them rise on the part of migrants and human traffickers. Hundreds of refugees have died since 1993 attempting to cross borders illegally into the states of the European Union, of those approximately 60 at the eastern border of Germany.
- b. Police and control offices are agreed in speaking of *an increase in readiness to use violence*, especially on the part of the traffickers.
- c. There appears to be a direct connection between making illegal entry and chances of employment more difficult on the one hand and the *increase in offences in order to survive or committing of other offences* to get money on the other. The latter is also becoming increasingly necessary in order to be able to pay back debts to their traffickers.
- d. Because the worsening situation regarding work and making a living means it is no longer possible for an increasing number of ‘illegals’ to leave Germany, *the number of illegal migrants living in Germany permanently seems to be rising*.
- e. Finally, in the course of the study evidence accumulated suggesting that sections of the criminal investigation authorities are prepared to accept (for the purposes of raising the rate of detection and solving of crimes) *association of innocent people with criminal acts* who did not commit them, or at least that the authorities in pursuing their enquiries do not always show the requisite care.

possible sub-contractors.” (Bundestagsdrucksache 13/8994:92) – an assurance which barely exceeds the level of a pure formality.

4.4. The limits of repressive combative measures

An individual with managerial responsibility at the Leipzig Employment Office put on the record something which other experts also admit (but as a rule only ‘off the record’): “In my view in this sector we are just scratching the surface.” Important reasons for this are, alongside the lack of personnel already mentioned:

- a. The lack of legal options and the appropriate investigative means to be able to bring the men behind the scenes to justice with ‘hard and fast proof’ of involvement in, or indeed of having caused, the abuses in evidence and to make them criminally liable for them.
- b. Single countries being out of their depth in tackling cross border criminal investigation and pursuit especially of internationally active gangs and Mafiosi crime syndicates.
- c. The fact that, as long as human rights violations and the current gap between rich and poor continue in being, people will not cease to get into countries legally or illegally where they hope for a better future³⁰.
- d. Above all it should not be forgotten that illegal immigration, illegal residence and illegal employment of foreigners is in the interests of influential groups and numerous individuals³¹.

Even experts are convinced that a simple increase in repressive combat measures is of little use and (because of the associated expense) likely to be of economically dubious value³². And one last point: as long as central offences in the context of illegality are determined by demand (e.g. cheap illegal labour), combating them with purely repressive means is as ineffective as those against the evasion of prohibition at the time in the USA or crime connected with drug consumption. In the one case or the other a repressive combative strategy

³⁰ On this two quotes may serve as examples. First a high ranking police officer thought: As long as there is no change in the causes of migration, then too

‘the police is in no position to prevent the upcoming third Migration of Nations. And if you and your work finally succeed in raising this problem to the level where it belongs to be dealt with, then that’s just fine by us.’

A representative of the Federal Border Police confirmed:

“Q. You would agree with the statement that the gap in wealth is the actual problem, both as regards the control of migration and the motivation for migration of people from the states surrounding Germany?”

A. Yes, the cause is the gap in wealth. It will also continue to be the push behind migratory movements for a long time to come. There is no end in sight.”

³¹ An interviewee from an employment office remarked in this context in rather resigned fashion: ‘Illegal employment of foreigners is closely interwoven with broad areas of society: So many groups profit from it that one can no longer fight it for that reason.’

³² In this connection a high-ranking interviewee from the Federal Border Police for instance remarked:

“I am forever trying to make it clear to people I talk to that raising numbers of personnel is not the panacea. At the moment some 5.000 officers are watching over 800 km of border. This is a length of border which, even if you had 10.000 or even 20.000 officers on the job, you couldn’t control in such a way as to have someone standing everywhere at all times.”

Jahn thinks that in view of the discrepancy between the (increasing) number of external investigations and factual exposing of abuse: “The controls develop their own dynamic which is not determined by economic rationality” [p.4], and Jahn/Straubhaar conclude: “Therefore it is cheaper for a society to accept some illegal immigration but to ‘save’ the exorbitant costs of ... border controls or ... internal controls.” [p.10ff.]

in the short or medium term primarily pushes the price for the goods in demand up and causes the violence and influence of those to grow who can satisfy this demand illegally.

5. POSSIBLE CONCLUSIONS

The data gathered can be interpreted in a number of ways. In summary form the author would like to present four possibilities:

Influential quarters in policy-making and administration know nothing about the extent and background of the problem. One observation across the board in the course of the field study was the frustration of experts who are concerned on the spot day to day with the problems surrounding illegal immigration, illegal residence and illegal employment. They are sometimes uncomprehending of the instructions, decisions and statements made by their superiors. A prominent representative of the Leipzig Aliens' Authority opined in an interview:

“Q. (...) I often get the impression that the opinions of those in the field are somewhat at odds with those of the politicians. Would you like to say anything on that?”

A. On that all I can actually say to you is: they are at odds. We often say to politicians or members of their team who are responsible for us at conferences: ‘Ask us first and then you can put something down on paper which actually works’.”

An alternative conclusion would be that influential quarters in policy-making and administration do not want to know anything about the extent and background of the problem and that they only pick out the information from the data material available that appears to them (for whatever reasons) to most suit their purposes. An interviewee from the police sector thought along the following lines:

‘I don’t get all this: All these facts are known to our political superiors. I have to laugh sometimes when I hear his press reports and realize: “I played my part in that too.” But what the press people do with our material is beyond our control.’

Equally one could explain the present situation by *influences from third parties that tip the balance against urgently necessary measures either being discussed publicly or tackled in concrete form.* Another police official thought on this:

‘If the political will to combat all this were seriously in evidence, there would be two instruments with which one could put a stop to the activities of employers (under suspicion) effectively: comprehensive liability especially in the large scale enterprises and reversing the burden of proof. Of course an extension of the interventionary powers of the police and district attorneys would be desirable too. But as soon as you demand that in Bonn you get caught up in the big companies’ lobby machinery and that would be that.’

The author believes that the following conclusion matches his research results best: Influential quarters consciously tolerate the present state of affairs, because even worse alternatives or those which are unattainable can thus be avoided or helplessness elsewhere can be disguised. This conclusion is supported both by the interest described above (in 3.2.2. and 3.2.3.) in the cheapest labour possible as well as factors of regional, social order and development policy. Regarding the last, one of the interviewees from the Leipzig business world thought:

‘It seems to me that the East European countries are given the chance to let off steam inasmuch as a “calculated immigration” is allowed... If a certain amount of illegal immigration were not tolerated, the situation there could explode³³.’

A ‘tolerance solution’ of this kind is ultimately not an infringement of the political principle “Germany is not a country of immigration” either: ‘Illegals’ are unable to attempt to settle permanently; and raids, expulsions and deportations can be increased or decreased according to the requirements of the economic cycle.

By way of conclusion to this chapter an ‘illegal’ interviewee should have his say who not only has long experience of living illegally, but who also by virtue of his earlier academic training has enough background knowledge to be able to substantiate his views:

- ‘Q. What should I do with everything that I have found out?
- A. Absolutely nothing. It won’t be possible to change things anyway. You see, there will always be people coming over the border who are prepared to sell themselves for any kinds of dirty jobs even for four Marks an hour. And there will always be people who make use of this fact to enrich themselves shamelessly, who also make sure they have such people available.
- Q. But it’s “objectively inhuman”, and the wrong people are getting rich. This can’t be allowed!
- A. Rubbish – there are no “objective standards”. We live in a cruel world. Exploitation has always existed just like there have always been the exploited. Those who are working here illegally are doing so on account of their own subjective considerations: “We have work, we’re earning something . We’re satisfied with that and we can live from it.” These subjective standards are the only thing which matters to them and their families back home. Exploitative swine have always existed. You, too, won’t be able to change that.
- Q. But once again: It’s got to be possible to divert this corrupt system based on exploitation, cheating and evasion back into regular channels. Then taxes would be paid again and the money thus gained could be invested in migration prevention –
- A. (grunting)
- Q. - I concede, experience in the asylum sector has been negative. We said: “OK, save the money here, and invest it there.” They did indeed save the money, they didn’t invest it though, instead kept it.
- A. You see, and that’s just how it would be here, only it would be even harder for us to find work.
- Q. But it really cuts me up to see how they get rich through people like you and one can’t get the better of them.
- A. So what? Don’t believe that you could change it. They want everything this way and they’ve got clearance for it right at the top.
- Q. Do you think so?
- A. But of course! Then why don’t the police take care of these people? They cause society the most damage, not the poor swine who do the moonlighting. (Examples follow of his experiences to date with companies and employers). This is where the state is being cheated of millions and billions, because they are cheating and evading and at the end get their money out of the country.
- Q. But something is being done to combat it, only the people who work on proceedings like this say that with the present legal position and evidence required it is incredibly difficult to bring such people to justice. They’ve got the money for a good lawyer and then all the gaps in the law get used to sabotage the proceedings.

³³ Countries of origin too have an interest in continuing illegal immigration: for example according to information from the *Federal Ministry for Economic Co-operation and Development (BMZ)* the “return transfers (of migrants to their dependants, the author) at ca. US-\$ 70 billion world wide top public development aid (US-\$ 55 billion)” [BMZ:7]. Beyond this the ‘human trafficking business’ and the ‘trade in labour’ have in the course of time become an established factor in the shadow economy from which too many profit for them to be brought under control with the means used for combating crime alone.

- A. Man, get it into your head! If they really wanted to do something to stop these people, then they'd make the laws so as to make it easier to bring them to justice. They would say: "You did it. You are guilty." And that's the end of the story. A law with gaps in it isn't a law. And it's intentional – believe me!
- Q. And I really shouldn't put any thought into possible alternatives and solutions? If nothing is done to stop it, then everything will get worse and worse until it is too late.
- A. Forget your solution – there isn't any. Leave everything as it is. That's how the system works.'

6. TWO WISHES AS AN AFTERWORD

At the end of this summary two wishes should be expressed: first the *author* refuses (for the moment) to agree with the pessimism voiced in the previous quote. But what could be done in order to deal adequately with the problems discerned in the illegal area is indeed a complex and multi-layered question. It demands not only uncomplicated humanitarian solutions for those individual cases of extreme need, but also procedures and legal regulations to put an end to existing exploitation and a wide range of human suffering – all of this in the context of a sophisticated discussion of various levels of criminal actions (giving more weight -e.g.- to criminal intent or damage to society), as well as a review of developments in connection with so-called 'globalisation'. Thus the author hopes, along with many of his interviewees, that his field study and the research report based on it will be a (further) prompt for a broadly-based public dialogue, with as few preconceptions as possible, among the relevant social groups on such questions.

A frequently-expressed wish of the '*illegals*' is put into words in the following quote. The interviewee here, too, first expressed doubt regarding the use of the research project for him and his dependants. Thereupon the author asked:

- 'Q. Then why do you want to talk to us at all?
- A. Perhaps your work will contribute to the German population being less afraid of us and seeing that we are human beings with very human motivations.'

BIBLIOGRAPHIE

- BMI (Bundesministerium des Inneren) (Hrsg.). (1990). *Flüchtlingskonzeption der Bundesrepublik Deutschland. Ansätze für eine ressortübergreifende Politik*. Bonn.
- BMI (1997). *Jahresbericht 1996 zur Kriminalitätslage in der Bundesrepublik Deutschland*. Bonn.
- BMZ (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung) (1994). *Konzept Flüchtlingspolitik im Rahmen der Entwicklungsarbeit*. Bonn.
- Bundestagsdrucksache 13/8994. Ausschuß für Arbeit und Sozialordnung: *Beschlußempfehlung und Bericht zu den Gesetzentwürfen BTDr 13/8012, 13/8653 und 13/8794 vom 12.11.1997* (Erstes Gesetz zur Änderung des Dritten Buches Sozialgesetzbuch und anderer Gesetze), Bonn.
- Erzbischöfliches Ordinariat Berlin (Hrsg.). (1997). *Rechtlos in Deutschland. Eine Handreichung und Einladung zum Gespräch über die Lage von Menschen ohne Aufenthaltsrecht*. Reihe: *migration* Nr. 3 (1997).
- Europäische Union/Rat (1998). *Notiz 9809/98 der Präsidentschaft betreffend Strategiepapier zur Migrations- und Asylpolitik*. Brüssel.
- Jahn, A. Wer hat Interesse an illegaler Beschäftigung? Niemand will sie missen. In: Deutscher Gewerkschaftsbund (Hrsg.) (1997): *Illegale Beschäftigung in der Europäischen Union. Gewerkschaftliche und staatliche Handlungsmöglichkeiten. Dokumentation der Arbeitstagung in Langenfeld am 21. + 22. November 1996*, S. 3-8.
- Jahn, A./Straubhaar, Th. (1998). A Survey on the Economics of Illegal Migration. In: *South European Society and Politics*. (Zitat aus dem unveröffentlichten Manuskript).
- Lederer, H. W./Nickel, A. (1997). *Illegale Ausländerbeschäftigung in der Bundesrepublik Deutschland*. Hrsg. v. Forschungsinstitut der Friedrich-Ebert-Stiftung, Abteilung Arbeits- und Sozialforschung.
- Vogel, D. (1996). Nutzen und Kosten illegaler Ausländerbeschäftigung. Einführende Überlegungen aus ökonomischer Sicht. In: Kooperationsbereich Universität-Arbeiterkammer Bremen (Hrsg.), *Arbeitsmigration aus Ost- und Westeuropa: Folgen für die Beschäftigung und Arbeitsmarkt am Beispiel der Bauwirtschaft in der Region Bremen*. Tagungsband. Universität Bremen.
- Weber, R./Graessner, S. *Umgang mit Folteropfern*. Broschüre herausgegeben vom Republikanischen Anwaltsverein.
- Wittkämper, G./Krevert, P./Kohl, A. (1996). *Europa und die innere Sicherheit*. BKA Forschungsreihe Nr. 35. Wiesbaden.

Research project on the living situation of 'illegal' migrants - Research report (overview)

PART I THEORETICAL-METHODOLOGICAL BASIS

Chapter on research aims, size of samples, state of sources, methods, verification criteria, justification of credibility

PART II DESCRIPTIVE SECTION

Chapter on reasons for emigration, preconceptions of the migration target country, course of emigration, initial integration, work, accommodation, health care, social relationships, making a living, assessment of life and life planning, problems of special migrant groups.

PART III DISCUSSION OF THE TRUTH OF THE KEY THESES OF THE RESEARCH PROJECT

THESIS 1 (on 'illegals' and refugees)

Chapter on the ignoring and incorrect treatment of asylum applications, reasons for problems in the asylum procedure, behaviour on account of fear of deportation and why a decision against application is taken from the beginning. Remarks on deportation and detention and an evaluation of German asylum policy and asylum procedure from the point of view of 'illegals'.

THESIS 2 (on background, damage and utility of illegal employment of foreigners)

Chapter on the structural background to the attractions of illegal employment of foreigners (deregulation, working organisation through 'main enterprises', behaviour of clients), as well as on the context in which illegal employment of foreigners as regards assessment of damage has to be set and in which its 'damage to the host society' can be evaluated, like for example moonlighting, wrongful receipt of benefits, economic crime. Weighing up of direct and indirect damage and utility for the host society.

THESIS 3 (on 'illegality' and 'criminality')

Chapter on the inhibiting factors for 'illegals' regarding, or careers of 'illegals' in, crime, on the different levels of crime committed (criminalisation by law, crime committed in order to survive, serious crime) and forms of organisation (individual criminal acts, loosely- and tightly-organised groups and organised crime), on the difficulties associated with getting out of crime as well as the perception of illegality and guilt feelings on the part of 'illegals' regarding the non-legal acts they have committed.

PART IV EFFICIENCY OF APPROACHES TO SOLUTIONS CURRENTLY BEING PRACTICED

Control of Immigration

Chapter on the evaluation of deterrent and attraction-reducing measures, measures to control entry, combating of 'migrant traffickers' and fighting the origins of migration as well as on the indirect results of these measures.

Combating illegal employment

Chapter on the resources of the authorities and dimensions of the control requirement, measures taken by the authorities and the difficulties involved in conducting criminal investigations, bringing those responsible to justice and of sanctioning, on the 'deficits of justice' of the current legal and punitive situation and attendant effects.

Combating selected criminal acts

Chapter on shoplifting, gang crime as well as criminal acts by internationally active Mafia groups, combat deficits and attendant effects.

Conclusions

Chapter on deficits in the legal situation, on capabilities of the offices, on the relations between the various offices and with their respective superiors, on the limits to which present abuses can be combated on account of the character of demand sustaining them, presentation of the thesis that in the author's view the current situation is being tolerated consciously.

APPENDICES

The research report itself costs DM 49,80. An extra volume on CD-ROM contains further information, e.g. graphics, statistics, newspaper articles, features on special subjects, transcribed expert interviews as well as statements and letter from the official authorities to the author and editor. The costs of the CD-ROM are DM 10.

Both the research report and the CD-ROM can be obtained from:

von Loeper Literaturverlag
C/o Ariadne Medien
Kiefernweg 13
D- 76149 Karlsruhe
Tel. (+49)721/ 706755
Fax: (+49)721/ 788370
e-mail: AriadneKA@aol.com

Comments to the author can be addressed in writing to:

Jörg Alt SJ
c/o Kaulbachstr. 31a
D - 80539 München