

# Panu Poutvaara, Marcus Drometer, Carla Rhode and Martina Burmann A Novel Two-Track Labour Migration System for Germany<sup>1</sup>



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In view of imminent skill shortages and rising international competition for qualified migrants, a key objective of a new immigration system is to increase the prominence and attractiveness of Germany as a destination country for skilled workers. Migration systems can be demand oriented, such that residence permits are bound to a job offer and thus directly linked to the labour market needs. Alternatively, migration systems can be potential oriented, such that workers who have great potential to productively join the labour market, but do not have a concrete job offer, are able to immigrate and search for a job. The latter approach focuses on a candidate's skillset and qualifications and exists in several traditional immigration countries like Canada, Australia and New Zealand and is becoming more popular in other nations. Both tools are very useful for attracting qualified foreign workers and boosting national economic activity, while counteracting skills shortages. Hence, this article proposes a clearly structured, two-track immigration system consisting of a market-based channel and a potential-based point system, which takes the virtue of both migration approaches into account, unifying them in one framework (see Figure 1). The market-based channel, as shown on the left in Figure 1, allows people to apply for a permit if they have a valid job offer with a salary above a certain threshold. The potential-based track on the right hand side follows a point system and is open to candidates without a job offer, or with an offer where the salary does not meet the minimum requirement.

Nowadays, a modern and free online platform is an indispensable element of an active immigration policy. The two-track system is therefore supported by an electronic platform providing free information on the possibilities of labour-related migration to Germany in both English and German. A questionnaire on the homepage guides potential applicants to choose the most suitable of the two tracks based on their individual eligibilities. After choosing a track, applicants can apply on the same platform. As much of the application process as possible, including the proof of qualifications, should be carried out digitally to keep the

handling costs low. The already existing information platform "Make it in Germany" could be developed further to accommodate these suggestions.

For both tracks, the number of immigrants can be regulated via quotas, which can be adjusted to meet the country's demand on a regular basis. More specifically, an annual quota should be determined for each track, and subsequently divided into quarterly quotas. During the trial period of the new system, the quotas should be set sufficiently high. For the potential-oriented track, a quota of about 50,000 to 75,000 each year could be conceivable, and a significantly larger quota of 150,000 to 250,000 for the market-based channel. If the quota is not exhausted in the respective quarter, the remaining spots can be transferred to the following quarter. This, however, is only possible within the same calendar year. Additionally, unfilled spots in the point system can be transferred to the market-based channel, if the number of applicants in the market-based channel exceeds the effective quota. A transfer of contingents in the other direction is not possible.

The quotas not only include the respective applicants, but also the fully-aged family members joining them. The market-based channel's quota should also include immigrants who come to Germany via European regulations such as the EU Blue Card or the ICT scheme, since these channels would continue to exist alongside the new national system.<sup>2</sup> All current immigration schemes should be preserved until the new system is fully tested.

## MARKET-BASED IMMIGRATION CHANNEL

The objective of the market-based immigration channel is to considerably simplify demand-oriented immigration to Germany. Therefore, everyone who possesses a binding job offer with a salary that meets the minimum threshold should have the opportunity to apply for a temporary residence and work permit, valid for the duration of their employment contract. The responsibility of assessing the migration need is thus assigned to the labour market. If a third-country national receives an employment-contract in Germany, one can assume that there is actual demand and that the applicant's qualifications have been sufficiently reviewed by the employer. Hence, additional proofs of qualifications or costly labor market tests are not necessary.

In order for Germany to benefit from this kind of migration in the long run, the immigrating employee must be a net contributor to the welfare state. Thus, as with the EU Blue Card, salary plays a key role in the market-based immigration channel in addition to a binding job offer. To define an economically founded salary threshold, one must calculate the income one needs to

earn in order to be a net contributor. Being a net contributor is defined as the point at which one pays more social contributions and taxes to the welfare state than one received via benefits and public goods. Based on the relevant government expenditure per employed person and taking social contributions, income taxes and indirect taxes into account, a rough estimation of the gross salary threshold yields 34,000 € per year.<sup>3</sup> The calculated value, however, only serves as a guideline for policy-makers, enabling them to make informed decisions when determining the salary threshold. The actual salary threshold should be established in a polit-

<sup>3</sup> This estimation is based on data from Germany's 2016 national accounts (Statistisches Bundesamt 2017c). Government spending on public order and security, economic affairs, environmental protection, housing sector and municipal facilities, public health sector, leisure activities, sport, culture and religion, education sector as well as social spending on disease or occupational disability and family and children are considered in the calculations. When considering taxes and social security contributions, income tax and the solidarity surcharge are considered in addition to social security contributions for health insurance, nursing insurance and unemployment insurance. Moreover, it is assumed that the average share of indirect taxes accounts for 17% of each person's net salary. Next to economic know-how, access to relevant data is necessary to make an exact calculation. Therefore, it is conceivable that the calculations are conducted in the Federal Ministry of Finance, the Federal Ministry of Labour and Social Affairs or the Federal Ministry of the Interior for instance; or that a research institute is commissioned to conduct the calculations. Having specified the calculation procedure, the value should be regularly verified and adapted to new developments.

ical decision-making process, reviewed regularly and adjusted to current conditions.

For the industries and occupational groups in which the average salary lies above threshold, the inflow of foreign skilled employees is simplified substantially. To facilitate the migration of workers in industries where the average salary lies below the minimum threshold and where Germany experiences skill shortages, salary exceptions are introduced. Customary remuneration in the respective profession should, however, serve as a minimum salary level to avoid wage dumping. The conventional salary can, for example, be identified using the existing wage guide issued by the Federal Labour Office ("Bundesagentur für Arbeit").

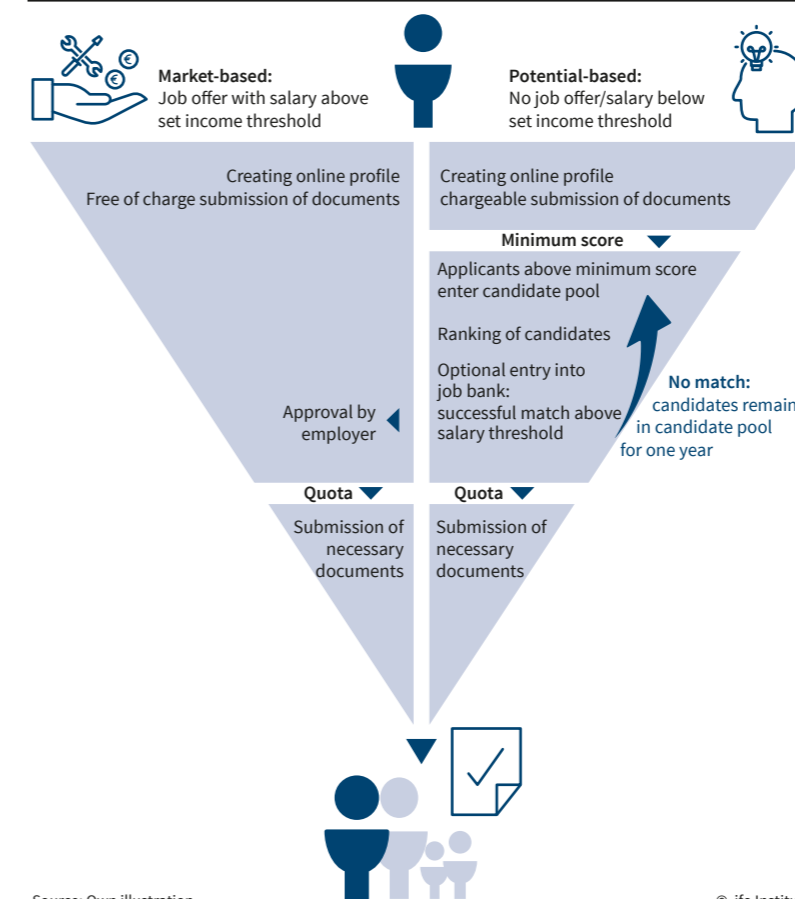
At the beginning of their application, applicants provide personal information, key data concerning the employment contract, as well as the employer's contact details via the online portal. If the information provided by the job seeker complies with the pre-determined criteria, the employer receives an automatic e-mail requesting a verification of the employment contract details. If the criteria are satisfied and confirmed by the employer and the quota has not been exhausted, qualified applicants are invited to submit proof of identity, a criminal record, as well as the labour

contract. This is also handled via the online portal or via alternative digital identification verification techniques. If the screening turns out to be successful, applicants receive a residence and work permit for the duration of the labour contract. If the quota has already been exhausted, the applicants are notified online that their application cannot be considered in the current quarter. To be considered in the following quarter, applicants must prove that the labour contract is still valid at a later starting point. If the minimum criteria for the market-based channel are not met, the applicant is asked to apply via the potential-oriented point system.

With respect to family reunion, the same regulations apply as for the EU Blue Card. If all living expenses can be covered for the entire family, family members traveling with the applicant may enter the country directly and access the labour market unrestrictedly. If the migrant loses the job applied for, he or she is granted

Figure 1

### ifo Concept: Two-track System for Labour Migration



Source: Own illustration.

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<sup>1</sup> The article is based on an ifo study "High-Skilled Migration in Germany: Suggestion for a Novel Migration System for Highly Skilled Based on International Experiences" commissioned by the Chamber of Commerce and Industry for Munich and Upper Bavaria, 2018.

<sup>2</sup> Since potential candidates for the EU Blue Card and the ICT regulations can, in most cases, also immigrate through the market-based channel, European immigration channels will probably be used less frequently in the future.

three months to find a new position that complies with the market-based immigration criteria. He or she is not entitled to social benefits during this period. If no other adequate employment can be found within this time, the work visa expires and the applicant and his family must leave the country. Immigrants who meet the scheme's requirements throughout the duration of their work contract can apply for a permanent residence permit after three years, according to current regulations.

#### POTENTIAL-ORIENTED POINT SYSTEM

The objective of the potential-oriented channel is to widen the possibilities for migrants to obtain a residence permit for job seeking purposes. At the same time, the aim of creating the track is also to present the possibilities in a clear, transparent, and consistent way. To regulate potential-oriented labour migration, a two-stage point system should be introduced. Candidates without a binding job offer, or those who do not comply with the criteria for the market-based immigration track, can apply through this track.

Similarly to the market-based track, an online platform is crucial. For the potential-based track, interested persons can review the criteria of the point system online and determine their individual point score to assess their chances of getting accepted. If a person wishes to apply, he or she can set up a user profile with information on criteria like age, level of education, qualifications, working experience, job offer according to their qualifications, language skills (German and English) and social integration ability.<sup>4</sup> To reduce the number of unsuitable applications and to motivate self-selection of the applicants, a fee is charged for submitting the application. The application process is organised quarterly, so that potential applicants can complete and submit their profile on four different deadlines. Up until the deadline, applicants can update and revise their information electronically.

Once the user profile has been uploaded, all applicants scoring above the minimum score are invited to the candidate pool. A certain minimum threshold should be defined in advance to serve as the minimum score. It should be designed flexibly and can be adjusted quarterly to meet the requirements of the labour market. The minimum score is integrated into the preliminary assessment and accessible online for interested prospective applicants. Once accepted into the candidate pool, applicants can log on to the application portal and choose to share components of their profile with potential employers. The latter are then able to search the pool of applicants and invite suitable candidates to apply for a given job. In case of successful placement and an employment contract with a salary

above the minimum threshold of market-based immigration, the applicant can transfer from the potential-oriented to the market-based track.

If the applicant remains within the potential-based track, a ranking is then generated based on the total points of all candidates who are in the candidate pool at the effective date. Those ranked at the top are invited to hand in the required documents and register for a residence permit. The number of candidates invited depends on the quota. Candidates who are not successful, may remain in the pool for another four consecutive quarters and get the chance to qualify again. During this period, an applicant can improve his or her profile by adding newly acquired language skills, for instance, or integration courses.

As soon as all required documents have been handed in and reviewed, the candidates who have been accepted receive a residence permit entitling them to accept employment and search for a job. They may seek employment for up to 18 months. The occupation must either correspond to their qualification or comply with the salary criteria of the market-based immigration track. Immigrants must support themselves financially throughout the period of the job search, and therefore should have the possibility to pursue an alternative occupation to make a living. This is particularly relevant for young professionals without sufficient savings. Should no adequate employment be found after 18 months, the residence permit is not extended and the person must leave the country.

With respect to family reunion, the EU Blue Card rules apply in the potential-oriented track. If persons residing in Germany for job seeking purposes have enough funds to cover the living expenses of their family, they may instantly bring them into the country. Their family members get unrestricted and immediate access to the labour market.

#### RECOGNITION OF QUALIFICATIONS ACQUIRED ABROAD

The recognition of foreign educational and professional qualifications presents a crucial challenge for the acquisition of highly skilled workers from third countries. Currently, the recognition of foreign certificates is organised differently for various qualifications.

Firstly, an applicant can request the assessment of his or her university degree from abroad at the Central Office for Foreign Education. Additionally, the central database "anabin" provides useful information about the foreign universities that are recognized in Germany and the assessment of individual degrees. Secondly, as of April 2012 foreign professional qualifications are accredited by the Federal Determination and Recognition Act (an Act to Improve the Assessment and Recognition of Foreign Occupational Qualifications). The law can be applied to everybody and holds for the equivalence of federally regulated and non-regulated training professions. In the evaluation method, foreign profes-

sional qualifications are compared to German degrees based on formal criteria like content and duration. The emphasis lies on the comparability of contents taught. Applicants are then informed whether they are to receive either full recognition, partial recognition or no recognition. Due to the legislative change in 2011/2012, the recognition process for professional qualifications is applicable to applicants of all countries of origin and to many occupational groups. Thirdly, next to the above-mentioned act, there are additional laws concerning the recognition of foreign qualifications in certain occupational groups. In this case, it is the responsibility of the applicant to contact a specific certification authority that he or she can determine through an "authority finder" on the multilingual online portal "Anerkennung in Deutschland" (recognition in Germany).

As part of the proposed new scheme and to simplify the recognition process for the applicant, approvals will be managed by an overarching central authority. It is therefore not the applicant's responsibility to approach the appropriate authority in a specific case of recognition. Instead, he or she contacts a unified authority that takes care of transferring his or her request to the relevant sub-department. To boost user-friendliness, this centralised recognition authority is accessible via the online platform in both English and German.

In short, the recognition process of an applicant in the point system would proceed as follows: when entering qualifications in the online portal he or she can upload the necessary documents for recognition (in their original form, as well as a German or English translation) and pay the respective fee. The request for recognition along with the respective certificates would be automatically forwarded and processed by the responsible recognition authority. Any amendments or interposed questions would take place via the online platform (in English if necessary) and the final notice would also be communicated there. Through the electronic process, linguistic and logistic barriers could be reduced. In the point system, the application process as a whole, and the recognition process as a part thereof, could be offered on a joint platform.

The online recognition process is also open to potential immigrants who want to apply for a job in Germany outside the point system, or people who are already living in Germany. Like applicants of the potential-oriented track, they would create an online profile, choose the qualifications they seek to recognise, pay the relevant fee and upload the necessary certificates.

To attract additional workers for occupations facing skill-shortages, the current processes should be extended such that for training occupations candidates, who meet the required qualifications, but do not possess any formal certificate of previous vocational training, are incorporated. In this case, experienced workers can take a so-called external examination and thereby obtain the corresponding degree without hav-

ing participated in any formal job training in Germany. An option would be, for instance, to cooperate with the German Chambers of Foreign Trade and offer such external examination for individual professions abroad. In this case, interested professionals who do not possess the necessary formal certificate for their qualification could, for a fee and in their home country, prove their suitability for the German labour market. This additional possibility of recognition should first be introduced and evaluated in several main countries of origin and for certain professions before introducing it on a global scale.

#### CONCLUSION

Against the background of emerging skill shortages and increasing innovation pressures, it is increasingly important for companies to recruit qualified employees from abroad. Nonetheless, the share of employment related migration in Germany is relatively low, especially in comparison to traditional immigration countries like Canada. Therefore, this study proposes a novel two-track migration system to simplify current structures and boost the attractiveness of Germany as a destination country.

The suggested system blends a market-based and potential-based approach, uniting both supply- and demand-side aspects of migration. As a result, the novel system both simplifies the procedure for job holders, as well as creating an opportunity for professionals to immigrate without a job offer, or an offer below the salary threshold. The optional job entry in the potential-based system also allows employers to search for potential candidates and thus creates a possibility to match candidates and employers.

The recognition of foreign qualifications plays a key role in both migration tracks. Documents are forwarded to the authority in charge via a centralised system, and an accurate recognition of foreign qualifications is guaranteed. In combination with a modern online portal that provides extensive information and guides the application process, the new two-track system thus offers a less complex and more transparent procedure.

<sup>4</sup> Points for integration ability should be awarded for long prior stays in Germany (for instance within the context of a student exchange, studies, employment, social engagement), relatives in Germany and the successful participation in an integration course.