

COUNTRY REPORT  
**GERMANY**



# Undocumented Migration

Counting the Uncountable. Data and Trends across Europe

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**CLANDESTINO**

## **CLANDESTINO**

### **Undocumented Migration: Counting the Uncountable**

#### **Data and Trends across Europe**

This interdisciplinary project is a response to the need for supporting policy makers in designing and implementing appropriate policies regarding undocumented migration. The project aims (a) to provide an inventory of data and estimates on undocumented migration (stocks and flows) in selected EU countries, (b) to analyse these data comparatively, (c) to discuss the ethical and methodological issues involved in the collection of data, the elaboration of estimates and their use, (d) to propose a new method for evaluating and classifying data/estimates on undocumented migration in the EU. Twelve selected EU countries (Greece, Italy, France and Spain in southern Europe; Netherlands, UK, Germany and Austria in Western and Central Europe; Poland, Hungary, Slovakia and the Czech Republic in Central Eastern Europe) are under study in this project. Three non EU transit migration countries used as key ‘stepping stones’ by undocumented migrants en route to the EU, notably Turkey, Ukraine and one Maghreb country, are also analysed. Where relevant, the project considers the factors affecting the shift between legal and undocumented status among migrant populations. The project work programme is complemented by two regional workshops with policy makers and academics, 12 fieldvisits each resulting in a series of meetings with key policy actors, NGOs and journalists working on migration in each of the EU countries studied. The CLANDESTINO database on irregular migration in Europe, the Project reports and Policy Briefs are available at: <http://clandestino.eliamep.gr>

Each country report reviews all relevant data sources on irregular migration (e.g. apprehended aliens at the border or in the inland, expulsion orders, people registered through health or other welfare schemes for undocumented immigrants, municipal registers, statistical estimates from national and European statistical services), assesses the validity of the different estimates given and where appropriate produces a new estimate for the year 2008 for the country studied. The country reports cover the period between 2000 and 2007 and the last year for which data or estimates were available when the study was finalised in 2009, notably in some countries 2007 and in other countries 2008. This quantitative analysis is complemented by a critical review of qualitative studies and by interviews with key informants with a view to exploring the pathways into and out of undocumented status in each country. It is noted that the non-registered nature of irregular migration makes any quantification difficult and always produces estimates rather than hard data.

The Hellenic Foundation for European and Foreign Policy (ELIAMEP) is the coordinating institution of the CLANDESTINO consortium. CLANDESTINO Partners include the International Centre for Migration Policy Development (ICMPD) in Vienna, the Hamburg Institute of Economics (HWWI), the Centre for International Relations (CIR) in Warsaw, the COMPAS research centre at the University of Oxford, and the Platform of International Cooperation on Undocumented Migrants (PICUM) in Brussels.

The Hamburg Institute for Social Research (Hamburger Institut für Sozialforschung) is an independent private foundation devoted to scholarship in contemporary history and the social sciences. It was established in 1984 in Hamburg. Currently, the work of the Institute’s research staff is organized within the framework of three research units: The Society of the Federal Republic of Germany; Nation and Society; and Theory and History of Violence. Scholars from various academic disciplines (primarily sociologists and historians) focus in their work on empirical and analytical research and theory-building in the social sciences and historiography. Some of these research undertakings as well as conferences or publication projects are cooperative efforts involving partners from other institutions in Germany, other European countries, or abroad. For more information, see <http://www.his-online.de/>

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# Contents

<b>Part I:</b> .....	6
<b>Setting the frame</b> .....	6
<b>0. General introduction</b> .....	6
<b>0.1 The general migration framework</b> .....	6
<b>0.1.1 Flow Data</b> .....	7
<b>0.1.2 Stock Data</b> .....	12
<b>Part II:</b> .....	21
<b>Estimates, data and assessment of total size and structure of irregular migrant population</b> .....	21
<b>1. Most relevant data base and studies</b> .....	21
<b>1.1 Most relevant academic studies</b> .....	22
<b>1.1.1 Considerations presented by Dita Vogel</b> .....	22
<b>1.1.2 Considerations presented by Harald Lederer and colleagues</b> .....	23
<b>1.1.3 Considerations presented by Jörg Alt</b> .....	24
<b>1.1.4 Summary</b> .....	25
<b>1.2 Data quality and reliability</b> .....	26
<b>1.2.1 Considering data from Federal Police</b> .....	26
<b>1.2.2 Considering data from Labour Inspection</b> .....	29
<b>1.2.3 Considering data from Police Criminal Statistics (PKS)</b> .....	32
<b>1.2.4 Considering data from BAMF</b> .....	34
<b>1.2.5 Considering data from charity organisations</b> .....	35
<b>1.2.6 General considerations</b> .....	36
<b>1.3 Summary</b> .....	37
<b>2. Estimates, data and expert assessment on stocks</b> .....	39
<b>2.1 Total stocks</b> .....	39
<b>2.2 Gender composition</b> .....	44
<b>2.3 Age composition</b> .....	46
<b>2.4 Nationality composition</b> .....	47
<b>2.5 Subgroups relating to economic sectors</b> .....	51
<b>2.6 Former asylum seekers and refugee related groups</b> .....	63
<b>2.7 Other groups raising specific concerns</b> .....	63
<b>3. Estimates, data and expert assessments on flows</b> .....	64
<b>3.1 Demographic flows (birth and death)</b> .....	65
<b>3.1.1 Demographic inflows</b> .....	65
<b>3.1.2 Demographic outflows</b> .....	65
<b>3.2 Border related flows</b> .....	66
<b>3.2.1 Border related inflows</b> .....	68
<b>3.2.2 Border related outflows</b> .....	80
<b>3.3 Status related flow</b> .....	83
<b>3.3.1 Outflows to a regular status</b> .....	83
<b>3.3.2 Status related inflows</b> .....	89
<b>Part III:</b> .....	91
<b>Discussion and policy implications</b> .....	91

# **Part I:**

## **Setting the frame**

### **0. General introduction**

*Current estimates:* This report aims to offer a critical presentation of available estimates and data sources on irregular immigration in Germany. It is not original research but rather a collection of existing academic literature and a review of the data sources used. In the public debate circulate a lot of speculative numbers on the irregular immigration in Germany but no reliable insights or authoritative opinions exist. Most recent statements use to assess the number of irregular immigrants in Germany between 100,000 and 1 million persons. Academic research that aimed to get systematic and methodologically controlled calculation of reliable figure is scarce. Scholars emphasize that there is currently a high uncertainty in the calculation. Only few studies deal with methodological questions and try to assess the reliability of existing estimates and methods and try to make methodological proposals in order to get more transparent and reliable estimates of irregular immigration in Germany. Scholars agree that a basic requirement for this purpose is an improvement of data quality and a more transparent statistical registration. Thus, experts cannot provide any authoritative and reliable assessment of the number of irregular immigrants. But the German academic discourse offers at least suggestions for methodological approaches to reach more transparent and reliable assessments.

### **0.1 The general migration framework**

Germany is a country with a large share of immigrant population that arrived in the last five decades. But in German political and societal discourses the opinion is still strong that immigration has many negative effects and should be avoided or at least contained. Since 2000 legislation on immigration and on naturalization was amended and some opportunities for regular immigration of foreign nationals and an easier access to citizenship were introduced. But as a rule, German government still holds with respect to high unemployment rates that immigration and the employment of migrant workers is unwanted. With reference to serious problems in the integration of a part of the immigrant population and high unemployment among resident workers, the German government launched in the last years measures that aim to control and restrict immigration. For example, the acceptance of the freedom of movement of workers from the new EU-8 and EU-2 member states will be denied until 2011. And with a recent amendment of the residence act the successful passing of a language test was introduced as prerequisite that migrants may enter for the purpose of family migration. Characterizations of the 1980s and 1990s still hold true: Germany is a reluctant immigration country (Thränhardt 1995).

But since the early 2000s a political and institutional development can be observed that involves an increasing awareness to deal with migration and integration processes of immigrants as a constitutive element of complex societies in a globalized world. One expression of these recent efforts to deal with migration is the intensified effort by public authorities to document the ongoing de facto immigration – including irregular migration. Since the recent reform of statistical accounting German authorities intensified efforts to give a more comprehensive and realistic picture of ongoing immigration and integration processes by the recent introduction of the category of “migration background” in German statistical accounting. The Federal Statistical Office explains that everybody belongs to the category „person with migration background“, who had immigrated after 1949 to the current territory of Germany, and also every foreign national born in Germany, and also everybody who is born as a German in Germany but has at least one parent immigrated or born in Germany as a foreign national (quoted according to BAMF 2008a: 187). According to recent findings in 2006 about 15.1 million out of 82.4 million persons in Germany – i.e. 16.6% of the total population - have a migration background, i.e. they or at least one parent were born abroad or is a foreign national. This high share of immigrant population is the result of the past six decades’ immigration history. In the following section, the flow data will be presented, afterwards some data on the composition of the stock of foreign nationals in Germany is presented.

### **0.1.1 Flow Data**

The current presence of immigrant population can be traced back to a variety of immigration patterns in past and present. As a matter of fact, in the last six decades Germany received not only immigrants of foreign but also of German nationality. The most important immigration patterns were the following:

- Between 1945 and 1961, millions of German nationals fled to the Federal Republic of Germany, mainly from Eastern European communist states and the German Democratic Republic.
- Between 1955 and 1973, an estimated 14 million workers from countries of the Mediterranean basin entered Germany on the basis of bilateral recruitment agreements in order to take up a temporary employment. The majority of these recruited workers returned until 1973 when the recruitment stop was declared. In this year about 2,7 million workers were in Germany: Many of them decided to stay (Bade 2000, Meier-Braun 2002).
- The subsequent immigration of relatives of foreign nationals living in Germany became an important channel for permanent settlement. In 2002 the German visa-authorities issued 85,305 visa for the purpose of family-related permanent immigration and in 2007 only 53,213 (see table 3, also (Sachverständigenrat für Zuwanderung und Integration 2004: 64).
- More than 4.5 million ethnic Germans moved to Germany since the 1950s, initially mainly from Poland and Romania and later mainly from the former Soviet Union (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 55). The immigration of ethnic Germans gained relevance after 1989: Between 1990 and 2003, 2.4 million ethnic Germans arrived (Migrationsbericht 2004: 34). Since 2004 immigration of

ethnic Germans decreased considerably. In 2007, merely 5,792 ethnic Germans were accepted (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 52).

- Between 1993 and 2007 the German authorities admitted altogether 200,691 persons as Jewish quota refugees that came exclusively from the area of the Former Soviet Union. Between 1995 and 2004 about 15 000 persons immigrated annually. Currently, the number reduced to 1,079 in 2006 and 2,502 in 2007 (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 95, Dietz 2003, Migrationsbericht 2004: 36f).
- The (often reluctant) reception of asylum seekers and civil-war-refugees contributed to a further increase of the immigrant population. Between 1990 and 2007 Asylum authorities decided more than 2.86 million asylum applications. In about 1.87 million cases the application was rejected, in 247,581 cases protection was granted (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 105ff). Although being obliged to leave the country, many rejected applicants managed to remain in Germany (Migrationsbericht 2004: 46). During the civil war in former Yugoslavia about 200,000 refugees were accepted as civil-war refugees on a temporary basis and overwhelmingly returned except for about 20,000 traumatized victims of civil war atrocities (Migrationsbericht 2004: 50).
- Another immigration pattern that contributes to the officially registered foreign population concerns temporarily admitted migrant workers and students. Altogether 333,690 seasonal workers and on average 34,211 workers with foreign contract for services were employed in 2004. This number reduced in the year 2007 to about 300,000 seasonal workers and on average about 18,000 workers with contract for services (see table, 3). About 60,000 foreign students (with a foreign diploma) were admitted for studies in 2003. The level of admitted students is relatively stable above 50,000 students with 53,000 admissions in 2007 (table 3, also (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 56ff).

But an only exclusive consideration of entries would deliver a distorted picture of the current migration situation in Germany. As a matter of fact, immigration is always accompanied by a relevant level of emigration that influences migration balance. In the German case, the level of emigration was and is considerable and even used to counterbalance immigration in the last ten years. A review of registered entries and exits across German borders for the time 1991 – 2007 (table 1) indicates that the total immigration balance reduced since 2004 and was in the years 2006 and 2007 below 50,000 cases.



**Table 1: Entries and exits across German borders 1991-2007**

Year	Entries			Exits			Balance	
	Total	Foreign nationals	Share in %	Total	Foreign nationals	Share in %	Total	Foreign nationals
1991	<b>1,198,978</b>	925,345	77.2	<b>596,455</b>	497,540	83.4	<b>+602,523</b>	+427,805
1992	<b>1,502,198</b>	1,211,348	80.6	<b>720,127</b>	614,956	85.4	<b>+782,071</b>	+596,392
1993	<b>1,277,408</b>	989,847	77.5	<b>815,312</b>	710,659	87.2	<b>+462,096</b>	+279,188
1994	<b>1,082,553</b>	777,516	71.8	<b>767,555</b>	629,275	82.0	<b>+314,998</b>	+148,241
1995	<b>1,096,048</b>	792,701	72.3	<b>698,113</b>	567,441	81.3	<b>+397,935</b>	+225,260
1996	<b>959,691</b>	707,954	73.8	<b>677,494</b>	559,064	82.5	<b>+282,197</b>	+148,890
1997	<b>840,633</b>	615,298	73.2	<b>746,969</b>	637,066	85.3	<b>+93,664</b>	-21,768
1998	<b>802,456</b>	605,500	75.5	<b>755,358</b>	638,955	84.6	<b>+47,098</b>	-33,455
1999	<b>874,023</b>	673,873	77.1	<b>672,048</b>	555,638	82.7	<b>+201,975</b>	+118,235
2000	<b>841,158</b>	649,249	77.2	<b>674,038</b>	562,794	83.5	<b>+167,120</b>	+86,455
2001	<b>879,217</b>	685,259	77.9	<b>606,494</b>	496,987	81.9	<b>+272,723</b>	+188,272
2002	<b>842,543</b>	658,341	78.1	<b>623,255</b>	505,572	81.1	<b>+219,288</b>	+152,769
2003	<b>768,975</b>	601,759	78.3	<b>626,330</b>	499,063	79.7	<b>+142,645</b>	+102,696
2004	<b>780,175</b>	602,182	77.2	<b>697,632</b>	546,965	78.4	<b>+82,543</b>	+55,217
2005	<b>707,352</b>	579,301	81.9	<b>628,399</b>	483,584	77.0	<b>+78,953</b>	+95,717
2006	<b>661,855</b>	558,467	84.4	<b>639,064</b>	483,774	75.7	<b>+22,791</b>	+74,693
2007	<b>680,766</b>	574,752	84.4	<b>636,854</b>	475,749	74.7	<b>+43,912</b>	+99,003

Source: BAMF 2008a: 14

The figures remind us that German migration statistics rely on residence registers which count every regular movement that leads to a residence in Germany, not only of foreign but also of German citizens and include permanent and temporary movements too. Table 1 shows that in spite of a high level of 800-600,000 annual entries the *net immigration balance* remained on a low level due to a comparably high number of departures. Besides the (voluntary or enforced) return of rejected asylum seekers and unaccepted refugees in the last years, the increasing amount of exits of German nationals and the return of EU citizens also contributed to exits. As table 2 indicates, besides migrants admitted for permanent immigration (like Jewish Quota Refugees, Ethnic Germans, Family Migration), migrants admitted for only temporary purposes (i.e. seasonal workers, contract for services employment, employment of IT-specialists) and entries by EU citizens are also registered in the entry and exit statistics.

**Table 2: Immigrant categories according to purpose of entry 1991 - 2007**

Year	EU-Freedom of movement (EU-14)	Subsequent Family Migration	Ethnic Germans (Spät-) Aussiedler	Jewish Quota Refugees	Asylum seekers	Contract for Services Employment	Seasonal workers	Computer Specialists	Education and Studies
1991	128,142	–	221,995	–	256,112	51,771	128,688	–	–
1992	120,445	–	230,565	–	438,191	94,902	212,442	–	–
1993	117,115	–	218,888	16,597	322,599	70,137	181,037	–	26,149
1994	139,382	–	222,591	8,811	127,210	41,216	137,819	–	27,922
1995	175,977	–	217,898	15,184	127,937	49,412	176,590	–	28,223
1996	171,804	–	177,751	15,959	116,367	45,753	197,924	–	29,391
1997	150,583	–	134,419	19,437	104,353	38,548	205,866	–	31,123
1998	135,908	62,992	103,080	17,788	98,644	32,989	207,927	–	34,760
1999	135,268	70,750	104,916	18,205	95,113	40,035	230,347	–	39,905
2000	130,683	75,888	95,615	16,538	78,564	43,682	263,805	4,341	45,652
2001	120,590	82,838	98,484	16,711	88,278	46,902	286,940	6,409	53,183
2002	110,610	85,305	91,416	19,262	71,124	45,446	307,182	2,623	58,480
2003	98,709	76,077	72,885	15,442	50,563	43,874	318,549	2,285	60,113
2004	92,931	65,935	59,093	11,208	35,607	34,211	333,690	2,273	58,247
2005	89,235	53,213	35,522	5,968	28,914	21,916	329,789	–	55,773
2006	89,788	50,300	7,747	1,079	21,029	20,001	303,429	2,845	53,554
2007	91,934	42,219	5,792	2,502	19,164	17,964	299,657	3,411	53,759

Source: BAMF 2008: 38

\* An addition of the mentioned categories to a total is not possible because of different registration rules (person register, case register).

Table 2 shows that the figures on registered entries include several categories of migrants who are allowed to enter for different purposes. With respect to *foreign nationals* it is noteworthy that circular migrations of temporarily admitted migrant workers contribute to a high turnover of entries and exits. Immigrants enter Germany mainly from other European countries. About three quarter of all immigrants came from other European countries (74%). And half of all registered immigrants were from EU-member states (58.4%) Table 3 provides information on entries and exits from and to Germany in the year 2007 including German and foreign nationals crossing the borders.

**Table 3: Entries and exits to and from Germany in the year 2007** (all nationalities)

<b>Region</b>	<b>Entries from...</b>	<b>Exits to...</b>
EU-12 (old member states)	265,927 (39.1 %)	192,804 (30.3 %)
EU-14 (new member states since 2004)	131,663 (19 %)	151,151 (23.7 %)
Europe (Non-EU-countries)	103,823 (15.3 %)	114,980 (18.1 %)
Asia	83,985 (12.3 %)	69,836
America, Australia and Oceania	57,986 (8.2 %)	69,842
Africa	25,056 (3.7 %)	19,896

Source: BAMF 2008a: 17

With respect to Non-EU countries (marked in bold), the most important countries of origin are Turkey, Russian Federation, China, Serbia and Montenegro, India and Croatia (table 4).

**Table 4: Entries and exits – most important countries of origin and destination 2007**

	<b>Entries</b>	<b>Exits</b>
Poland	153,589	120,791
Romania	43,456	24,054
<b>Turkey</b>	28,926	32,172
<b>USA</b>	26,939	30,602
Hungary	22,880	17,732
Italy	20,771	25,413
Bulgaria	20,702	8,382
<b>Russian Federation</b>	20,295	12,755
France	19,367	17,641
Austria	15,743	20,152
Spain	15,515	17,124
<b>China</b>	15,061	13,069
Netherlands	14,107	10,071
United Kingdom	13,443	17,942
<b>Serbia and Montenegro</b>	12,640	11,652
<b>India</b>	9,855	8,070
Slovakia	9,583	8,472
Greece	8,908	15,599
<b>Croatia</b>	8,684	10,610

Source: BAMF 2008a: 22

The consideration of 2007 figures of migration to and from third-countries indicates that Turkey, Croatia and USA showed a negative balance, while in particular the migration balance from Russian Federation was positive. All in all, the balance remained rather low in 2007 with a net migration balance of 99,000 registered entries.

The available statistical information show that Germany currently does not receive much new permanent immigration but a high number of entries for temporary purposes. This situation may be explained *inter alia* as the intended outcome of a policy that still aims to prevent permanent immigration of foreign nationals in favour of temporary employment arrangements and removal of unwanted immigration. The modest immigration balance may be also interpreted as an expression of a decreasing economic and social attractiveness of Germany that does not pull migrants as it did in previous decades. To a particular extent it may be also an indicator, that people who are rejected and do not see a chance to enter on a regular basis due to the tight immigration law make use of side-entrances or back-doors through irregular entry and stay.

The following sections offer basic information on the stock data of immigrant population in Germany.

### **0.1.2 Stock Data**

As the previous section indicated, Germany experienced for decades considerable immigration. The stock of foreign population increased from 1.0% in the year 1951 constantly to a share of 9.0% in 1997 and remained until then relatively stable on this level. Until 2007 the category of foreign nationals provided the only indicator for immigration in Germany. However, this indicator lost significance as indicator for immigration in the course of time and delivered only a more and more incomplete picture of the immigrant population. On the one hand, the statistics reported children born to foreign parents in Germany as foreign nationals. On the other hand, immigrants of German nationality (Ethnic Germans) and their offsprings were not included in migration statistics. Moreover, immigrants who obtained German citizenship also disappeared from migration statistics. Additionally, the main data source for the accounting on migration - the "Central Register for Foreign Nationals" (Ausländerzentralregister - AZR) became in the course of time imprecise because it depends on the willingness of immigrants and authorities to report registration and deregistration.

In response to increasing criticism concerning the data quality, a reform of statistical accounting of migration was launched. In 2004 a statistical revision of the AZR was realized. As a consequence, the number of foreign residents living in Germany statistically decreased from 7.3 in the year 2003 to 6.7 million persons in 2004 (see table 6). This loss represents not a real demographic development but was the effect of a statistical cleaning. Moreover, the responsible authority began to make use of information based on the results of annually conducted surveys of micro census data. Table 5 presents both modes of accounting. According to the population projection in the year 2007 the share of foreign population was 8.9% (see table 5).

**Table 5: Foreign nationals and total population in Germany 1991-2007**

Year	Total population	Foreign population according to the population projection	Share of foreign nationals in %	Changes concerning foreign population in %	Foreign population according to AZR1
1991	80,274,600	6,066,730	7.6	-	5,882,267
1992	80,974,600	6,669,568	8.2	+9.9	6,495,792
1993	81,338,100	6,977,476	8.6	+4.6	6,878,117
1994	81,538,600	7,117,740	8.7	+2.0	6,990,510
1995	81,817,500	7,342,779	9.0	+3.2	7,173,866
1996	82,012,200	7,491,650	9.1	+2.0	7,314,046
1997	82,057,400	7,419,001	9.0	-1.0	7,365,833
1998	82,037,000	7,308,477	8.9	-1.5	7,319,593
1999	82,163,500	7,336,111	8.9	+0.4	7,343,591
2000	82,259,500	7,267,568	8.8	-0.9	7,296,817
2001	82,440,400	7,318,263	8.9	+0.7	7,318,628
2002	82,536,700	7,347,951	8.9	+0.4	7,335,592
2003	82,531,700	7,341,820	8.9	0.0	7,334,765
2004	82,501,000	7,289,979	8.8	-0.7	6,717,115
2005	82,438,000	7,289,149	8.8	0.0	6,755,811
2006	82,314,906	7,255,949	8.8	-0.5	6,751,002
2007	82,258,269	7,284,521	8.9	+0.4	6,744,879

Source: BAMF 2008a: 173

The data indicated a relatively stable (and in some years even slightly decreasing) amount of foreign population in Germany since 1995 in spite of a positive migration balance of about 2 million foreign nationals in the same period. One explanation why the level of immigrant population remained stable in spite of the average annual net immigration is – beside already mentioned outmigration – naturalization: Between 2000 and 2007 about 1.14 million foreign nationals received a German passport and thus are no longer registered as foreign nationals by German authorities (BAMF (Bundesamt für Migration und Flüchtlinge) 2008). Another reason for the quantitative stagnation of foreign population in Germany is the mortality of foreign nationals.

In order to solve the mentioned problem that the indicator “foreign nationality” lost informative value, public statistics introduced for the first time in the micro census survey 2005 the already mentioned new category of “persons with migration background”. The introduction of this category – that roughly equates the concept of including foreign born, foreign nationals and their immediate offspring – allowed to get a more sophisticated picture

on immigration including the group of German citizens (so-called ethnic Germans), naturalized immigrants and foreign nationals born in Germany (see table 6). For the purpose of this report, the full accounting of population with migration background may be of interest because the presence of immigrant population is perceived in migration theory as a factor that influences the probability of irregular immigration.

**Table 6: Population according to migration status 2005 and 2006, in thousand**

	<b>2005</b>	<b>2006</b>
Total population	82,465	82,369
German nationals without migration background	67,132	67,225
<b>Persons with migration background (in the narrow sense)</b>	<b>15,013</b>	<b>15,143</b>
<b>Persons with own migration experience</b>	<b>10,399</b>	<b>10,431</b>
- of those foreign nationals	5,571	5,584
- of those German nationals	4,828	4,847
<b>Persons without own migration experiences</b>	<b>4,614</b>	<b>4,713</b>
- of those foreign nationals	1,749	1,716
- of those German nationals	2,865	2,997

Source: BAMF 2008a: 188, using material from micro census

According to recent findings in 2006 about 15.143 million out of 82.4 million persons in Germany – i.e. 16.6% of the total population - have a migration background, i.e. they or at least one parent were born abroad or is a foreign national. About two third of them have personal migration experience and one third is born in Germany (see table 6).

### **Foreign nationals**

For the remainder of this section I will present some basic information on the foreign population in Germany. This data includes all residents without German citizenship. Until the reform of the naturalization act also children of foreign nationals born in Germany were registered as foreign nationals. Table 7 presents the most numerous national groups

**Table 7: Major immigrant groups from third countries by citizenship 2002 – 2007**

	2002	2003	2004	2005	2006	2007
<b>Total</b>	<b>7 335,6</b>	<b>7 334,8</b>	<b>6 717,115</b>	<b>6 755,811</b>	<b>6 751,002</b>	<b>6 744,879</b>
Turkey	1 912,2	1 877,7	1 764,3	1 764,041	1 738,831	1 713,551
Serbia and Montenegro	591,492	568,240	507,328	439,915	481,029	236,451
Macedonia	49,420	61,019	61,105	62,093	62,295	62,474
Croatia	231,1	236,9	229,2	228,926	227,510	225,309
Russian Federation	155,6	173,5	178,6	185,931	187,514	187,835
Bosnia-Herzegovina	163,8	167,1	155,973,0	156,872	157,094	158,158
Ukraine	116,0	126,0	128,1	130,674	128,950	126,960
Romania	88,7	89,1	73,365	73,043	73,353	84,584
Vietnam	87,2	88,2	83,5	83,446	83,076	83,333
Iraq	n.d.	83,8	78,792	75,927	73,561	72,597
Iran	88,7	81,5	65,187	61,792	58,707	56,178
Morocco	79,8	79,8	73,0	75,927	69,926	67,989
China	72,1	76,7	71,6	73,767	75,733	78,096
Afghanistan	69,0	65,8	57,9	55,111	52,162	49,808

Source: Statistisches Bundesamt 2004: 54; and ([www.destatis.de](http://www.destatis.de)), BAMF 2007: 297

All in all, the general feature of the foreign population in Germany is characterised by the dominance of a few European nationalities and an increasing diversity of other countries of origin. Every fourth foreign resident possesses the Turkish citizenship – although over 700,000 of these Turkish citizens – i.e. about 40 % – are already born in Germany. The statistics indicate that resident population from Asian countries, Russian Federation and Ukraine increased but is still on a relatively modest level.

The foreign population is moreover divided with respect to the length of stay and the residential rights. At the end of 2007, about 60 % of the foreign population lived in Germany with a secure permanent residence status. About one third of the foreign population held an unlimited residence permit. The remainder included asylum seekers (about 32,000), tolerated persons (128,000), foreign nationals with a pending prolongation of residence title (about 74,000) (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 168).

The economic integration balance of the immigrant population is still dissatisfying. Table 8 shows that unemployment rate among immigrant population is considerably higher than among the population without migration background.

**Table 8: Activity rate, realised activity rate and unemployment rate**

		<b>Gender</b>	<b>Activity rate</b>	<b>Realised activity rate</b>	<b>Unemployment quota</b>
Population without migration background		male	81.0	73.0	9.8
		female	68.9	62.2	9.8
		total	75.0	67.6	9.8
Population with migration background		male	78.2	63.6	18.6
		female	58.1	48.2	17.2
		total	68.3	56.0	18.0
Of those	Ethnic Germans and their off-springs	male	80.1	68.1	15,0
		female	67.4	57.5	14,6
		total	73.7	62.8	14,8
	Naturalized and children of immigrants born German nationals	male	75.7	63.0	16,5
		female	59.8	50.4	15,8
		total	67.8	56.9	16,2
	Immigrated and in Germany born foreign nationals	male	78.1	61.8	21,0
		female	52.9	42.6	19,5
		total	65.9	52.5	20,4
<b>Total</b>		male	80.4	71.2	11.5
		female	66.8	59.5	11.0
		<b>total</b>	<b>73.7</b>	<b>65.4</b>	<b>11.3</b>

Source: Bundesintegrationsbeauftragte 2007: 61

However, the economic integration problems are somewhat overemphasized by statistical distortion since those foreign nationals that are better off and more successful 'disappear' with naturalization from the statistics of foreign nationals and leave the less successful behind.

Concluding summary: The overview shows that the level of immigration into Germany has stabilized in the last decade. The amount of population of foreign nationality currently shrinks due to a strictly followed return policy and the introduction of a more liberal nationality law. Immigration is characterized by a high share of circular migration of migrant workers. The permanent immigration is characterised by an increasing national diversity.



## 0.2 Irregular migration discourses and policies

In Germany, unauthorized immigration is an issue that received attention for some decades. For the last ten years the issue is continuously discussed in Germany. However, it remained mainly a topic for specialised actors and became only rarely a “hot issue” in the public debate.

As a rule, the public debate is framed by two positions, the *humanitarian concerns (the unauthorized refugee)* and by the *public order issue (the criminal unauthorized)* (Vogel 1999). On the one hand, ministries of the interior take the issue of unauthorized immigration predominantly as a security concern and press ahead with border and migration control. On the other hand, human rights groups, churches and welfare associations point to the perils irregular migrants’ experience and demand legal reforms in favour of humanitarian concerns. As a result of this public attention, irregular immigration became in the meanwhile a sensitive issue for public authorities. Irregular immigration is mentioned in a number of official reports. Several ministries at federal and national level deal or have dealt with it. In the last five years few special reports on irregular immigration in Germany were published by public authorities and academic institutions. Some of these reports were commissioned by public authorities and review the existing information on irregular immigration, including the data and information collected by several public authorities that get in contact with unauthorized immigrants (mainly through control efforts).

*Recent historical framework:* Irregular immigration is an issue for some decades. The current debate and the concepts referred to are linked with historical development in this policy field.

As a rule, Germany is perceived to never accept irregular immigration. This is probably true for GDR that used to launch a strict control regime. But this image is not fully true for the Federal Republic of Germany (henceforth Germany). In the past also Germany accepted some patterns of irregular immigration and applied procedures in order to grant a status (official registration) for migrants who entered without required permission. As a rule, until 1973 the “spontaneous” migration of migrant workers from countries with recruitment agreements was regularized by German authorities after unauthorized entry when a person found an employer; and migrants from Socialist countries received a residence permit or toleration as refugees until the late 1980s. Moreover, even the assistance to unauthorized entry was not perceived as criminal offence in the case of refugees from Socialist countries but as a service for which the smugglers were allowed to raise a fee (Dietrich 2006). But due to the acceptance of particular patterns of irregular immigration (from socialist countries) and supported by the low numbers the issue did not cause much public attention and concerns until the early 1980s.

Irregular immigration became for the first time an issue when the recruitment ban was decreed in November 1973 and the door for regularization of spontaneous immigration was legally closed Karakayali (2008). But since courts strengthened the rights of relatives and family members, the officially unwanted immigration took the form of subsequent family migration. German governments tried hard to promote voluntary return of previously recruited and in the meanwhile settled migrant workers and their families until the 1980s but widely failed.

The issue of irregular immigration began to gain wider public attention and raised some concerns since early 1980s when the number of refugees and asylum seekers who entered the territory without the required permissions increased. Here, the distinction was made between the accepted irregular immigrants from communist CEE countries and the unaccepted immigrants from other countries (Höfling-Semnar 1995). With the collapse of the socialist system an interim period between 1989 and 1993 was characterised by a sudden dissolution of emigration restrictions imposed by socialist states and extremely high differentials in currency exchange rates and the standards of living. As a consequence, in particular Polish citizens managed to come to Germany and many applied for a status as Ethnic German or asylum seeker in order to stay. Additionally, in the early 1990s civil war refugees from Yugoslavia came to Germany in order to ask for protection. The German reception system with its focus on the evaluation of each individual case was not prepared to cope with this high amount of entrants. As a consequence, a backlog of asylum applications appeared and the duration of asylum procedures extended and led to a high number of persons with an insecure residence status and the permanent threat of removal. This category of insecure immigrants with established social links in Germany was perceived as an important source for irregular immigration.

German authorities launched many efforts in order to curb the inflow of unwanted irregular immigrants. With law amendments during the 1980s and 1990s the chances for access to an asylum procedure was reduced. In particular, the legal framework for the procession of asylum applications was changed in 1993 with an amendment of basic law with the introduction of safe-country-of-origin and safe-third-country rule. The immigration of ethnic Germans was already limited by a de facto quota since mid 1990, and in 1993 officially contained in a new and more restrictive law. Other measures like agreements with important countries of origin were arranged in order to reduce unwanted immigration and to remove irregular immigrants. And indeed, immigration reduced massively. For example, the number of Ethnic Germans reduced from a peak of nearly 400,000 arrivals in 1990 to about 35,000 in 2006 (BAMF 2007: 50f). Also the number of asylum seekers reduced from the peak of 438,191 in 1992 to 21,029 in 2006 (BAMF 2007: 89). Due to the several effective measures to contain and prevent immigration the unwanted patterns, immigration currently do not pose a challenge – but recently critique was raised that the obstacles against immigration also hamper wanted and needed immigration of highly-qualified workers or experts.

But the experiences of high amount of unwanted and allegedly uncontrollable immigration of recruited workers and their families during the 1970s and 1980s and of refugees, asylum seekers and migrant workers during the 1990s still influence the opinion of policy makers and public and give politicians the argument to follow an immigration policy that aims to strictly control and reduce immigration.

A particular event was the so-called *visa-affair* when it became public that the German diplomatic missions applied relaxed regulations for the issuing of Schengen-Visa for Ukrainian Citizens. This practice was highly scandalized by the conservative parties and led to the introduction of a special federal contact point for the observation and analysis of irregular immigration. The “joint centre for analysis and strategy concerning irregular migration” (Gemeinsames Analyse- und Strategiezentrum Irreguläre Migration - GASIM)

gathers representatives from public control authorities including Federal Criminal Police, Federal Police, the BAMF, Federal Customs and representatives from federal states' ministries. The GASIM is an informal gathering for the exchange of information and the preparation of expertise in close cooperation on a daily base. It operates in the background and hitherto did not cooperate with academic institutions or civil society.

## **Research**

Taking into account the relatively long history of irregular immigration to Germany and its relevance for the public debate it is rather surprising to note that research on irregular immigration in general and the consideration of quantitative aspects in particular started only late. Qualitative research was pioneered since mid-1990s by Jörg Alt's studies on irregular immigration in Leipzig and Munich (Alt 1999, Alt 2001, Alt 2003, Alt 2005) commissioned and financed by the Jesuit Refugee Service. Most subsequent local research studies on the situation of irregular migrants in Germany refer to these studies and were also conducted on behalf of humanitarian organisations or local authorities and focussed on the social situation of irregular immigrants in Berlin (Alscher et al 2001, Ordinariat 1999), Munich (Anderson 2003, Anderson 2004), Cologne (Bommes & Wilmes 2007) or Frankfurt (Main) (IWBF (Institut für Weiterbildung 2006) or most recently and still in progress in Hamburg.

Only few other academically research studies added with original empirical work (Cyrus 1997, Cyrus & Vogel 2002, (Lutz 2005, Lutz 2007), (Stobbe 2004). Further studies with a more theoretical or analytical focus dealt with aspects of irregular immigration or with irregular immigration as aspect of their research interest (Alt & Bommes 2006, Jünschke & Paul 2005, Lederer 2004, Straubhaar 2007). Some other publications laid more stress on the political dimension and the discourses contributed by NGOs and critical scholars (Autorenkollektiv 2000, Karakayali 2008, Schwenken 2006). Summaries of the available knowledge were published relatively late (BAMF (Bundesamt für Migration und Flüchtlinge) 2005, BAMF (Bundesamt für Migration und Flüchtlinge) 2006, Cyrus 2004, Schönwälder et al 2004).

In all these publications, the quantitative dimension was considered, although with quite diverse claims and quality. Mainly three patterns of dealing with estimates occur:

(1) Firstly, for a long time most media reports (and also some scholars) said that the phenomenon is increasing and that more and more immigrants enter and stay in Germany irregularly. Media coverage stated since the mid 1990s that the number of irregular immigrants is estimated by (often not named) experts with 1 million persons. The introduction of this figure had rather an illustrative purpose in order to underline that the phenomenon should not be underestimated. But there is hardly any attempt to explain the problem of quantification. In the meanwhile, due to the lack of consensus among experts, media tend to inform that the volume is estimated between 100,000 and 1 million persons but that nobody can really provide reliable figures.

(2) Secondly, most studies of irregular immigration in Germany did not deal in a systematic and methodologically controlled way with the assessment of the volume of irregular immigrants but simply presented a guess that was more or less extensively substantiated with reference to simple calculations of available information or was merely a reference to numbers already circulating in the public. For example, the most recent available local research study on Cologne underlines that there are no reliable estimates available. But finally, the authors perceive the number of 20,000 irregular migrants in Cologne (originally introduced as a minimum figure in the year 2001 by Jörg Alt with reference to anonymous information from police) also as too low (Bommes & Wilmes 2007: 14). However, it remains unclear how the authors reached this conclusion.

(3) Thirdly, some scholars were more explicitly concerned with the problem of data quality and published at least more or less (self-)critical reviews of available information (Alt 2001) or explored the available data material and considerations on the development of assessment methodologies more systematically (Vogel & Röseler 1993; Vogel 1999, 2003; Lederer 1997, 1999, 2004). This strand of literature agrees that there are no reliable figures on the volume of irregular immigrants. Authors use to underline that several data sources could serve as basis for a proper assessment provided that some revisions in the data collection and data registration would be made and the public data sources would be made available for methodologically systematic exploration. In some cases, the authors provide examples for their approaches or they present estimates circulating in the public only with a clear reservation.

If there is any agreement in the German debate at all, than that it is impossible to provide a reliable exact figure of irregular immigrants in Germany. The BAMF 2006 study summarizes current opinion that meaningful statistics on unauthorized immigration do not exist but that

“(…) some statistics describe aspects which are related to irregular entry and/or and can be taken as an indicator. Provided that sufficient indicators exist and will be observed over a longer period and all point to the same directions, it may deliver indications of current trends of unauthorized immigration. Such an approach is labelled as multiple indicator use” (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 5).

The remainder of this paper will present first an account on the most relevant academic publications. The following section presents and assesses in accordance with the CLANDESTINO guide-line available estimates and data-sources. The last chapter summarises the state of the art.

## **Part II:**

# **Estimates, data and assessment of total size and structure of irregular migrant population**

### **1. Most relevant data base and studies**

The term “irregular migrant” is used in a more or less narrow meaning. In a narrow sense as it is presented by the BAMF and the Federal Ministry of the Interior, irregular migration refers only to third-country nationals who do not possess the required residence permits and live in Germany without being known to authorities. In a wider sense, as is used in many statistics and press releases by public authorities, the term “irregular migrant” may refer to every non-German citizen that does not possess required permits. The term irregular migrant may refer to EU citizens, migrant workers and temporary residents.

German statistics and also the public discourse do rarely distinguish between EU citizens and third country nationals but only between German and foreign nationals. In several accounts that offer information on irregular foreign nationals, EU citizens are included although in a narrow legal sense the term “irregular migrant” does not include citizens of EU member states who enjoy European freedom of movement. For example, Federal Police and Federal Criminal Office do include EU citizens in their accounts on foreign suspects without a legal status. Also welfare associations or academic studies use the term “irregular migrant” in this wider sense. Thus, it is difficult and often impossible to derive from these sources precise information on third country nationals.

Another complication is the often unclear reasons why a migrant is perceived to be in an irregular situation. As a rule, an irregular situation may derive from irregular entry, irregular stay or undeclared employment. The available documents do not always distinguish sufficiently between these different patterns although the distinction between irregular migrants and undeclared employment of migrant workers with a legal residence status is a fundamental and important distinction for the assessment of irregular immigration.

A further problem that complicates review is the use of several concepts with respect to the duration of irregular stays. While some academic studies understand by irregular immigrant mainly persons that have established a focus of life in Germany without the required permissions, others do count every person that is apprehended within a given period in Germany without required documents. This may include short term migrants and even transit migrants like Chinese nationals on their way to the UK or the Netherlands (Neske et al 2004). In order to handle this categorical problem, Alt (Alt 2004) distinguished between long-term residing irregular immigrants and seasonal irregular immigrants and commuters. Including the category of short term migrants and commuting casual workers increases the figure of

irregular migrants. Accordingly, when (Cyrus 2007) states that the number of irregular Polish immigrants in Berlin before 2004 was equal to the number of legal Polish residents he included also commuting persons which may be staying only for a short time in Berlin in order to perform undeclared employment.

The following section 1.1 offers a short review of the most relevant academic studies. The subsequent section 1.2 discusses the reliability of the data sources referred to by scholars.

## **1.1 Most relevant academic studies**

As a matter of fact, the few serious academic attempts to estimate the amount of irregular immigrants in Germany all refer to the above presented available public statistics, try to develop an approach for a critical and more systematic use of available data, and partly propose additional and more focussed data producing techniques.

### **1.1.1 Considerations presented by Dita Vogel**

*Dita Vogel* was among the first scholars that dealt more systematically with the issue of quantification of irregular immigration in Germany. Vogel published three papers dealing with the issue of a quantitative accounting of irregular immigration. She raised the issue first in an early paper (Röseler & Vogel 1993: 21f). Observing a quantitative increase of apprehensions of irregular migrants at the borders and in the interior since 1988 she indicated that there is no reliable method to assess the amount of irregular immigration. She argued however that scholars could develop in cooperation with public agencies approaches in order to get to more transparent estimations (Vogel 1999, Vogel 2002). In a seminal paper published 1999 in a demographic journal she carefully presented available information and discussed the chances to use multiplier and discrepancy methods for accounting (see also the CLANDESTINO methodology report). She argued that even without reliable estimates the use of transparent methods of accounting and calculating may lead to more transparency in the political and societal debate and is therefore preferable (Vogel 1999: 169). For demonstration purposes, she presented the multiplier method as an example. She reviewed the figures delivered by several authorities (apprehensions on the border and in the interior) and highlights that there is no constant multiplier and accordingly, the number of detected cases does not provide a reliable basis for the calculation of undetected cases (Vogel 1999: 171). She mainly presented then approaches that could be used for methodologically controlled assessment under the current framework. As one example, Vogel introduced the application of the multiplier approach. She assumes that criminal offences against life (Straftaten gegen das Leben – “T222” in the PKS) have the same probability for irregular and legal immigrants. Accordingly, the share of foreigners without a regular status which were subject of criminal investigation for crimes against life would be the same as for regular immigrants. For the year 1996 with 112 foreign suspects without and 1,248 foreign suspects with residence status (without consideration of tourists and members of military forces) the multiplier would be 0.0897. Applied for the foreign population of 7,314,046 this would amount to a figure of

about 656,000 foreign nationals without legal residence status. This figure is perceived as maximum. As a minimum figure, Vogel took the apprehensions of irregular migrants (with the multiplier of the factor 1). In the year 1996 the figure provided by the Police Criminal Statistics was 110,000. Accordingly, Vogel stated that this figure is the absolute minimum.

Vogel underlined that the proposal would require more methodological consideration. But she argued that in principle it would be possible to get more transparent data with the cooperation of public authorities. She made further proposals that control authorities could contribute to a more transparent and systematic collection of data when they agree to conduct for short periods and particular areas control activities that do not follow organisational and political preferences but the rules of methodologically controlled data collection according to a random principle.

### **1.1.2 Considerations presented by Harald Lederer and colleagues**

The second relevant author is *Harald Lederer* who presented in 2004 a seminal study on the quality of migration statistics in Germany. He gave a critical review of available data and proposals for the quality of migration and integration statistics, including the statistics that may include information about irregular migrants in Germany (Lederer 2004). In order to reach methodologically and systematically more controlled estimates, Lederer proposed a “multi-dimensional approach” that pursues a combined consideration and weighing of available information sources. Lederer presented his analysis in several publications (Lederer 1999). As researcher of the European Forum Migration Studies in Bamberg (efms), he designed and prepared the early volumes of the official migration report published by the Federal Government. He is currently the responsible officer for statistics at the BAMF and involved in BAMF publications dealing with the problem of quantitative assessment of irregular immigration (BAMF (Bundesamt für Migration und Flüchtlinge) 2005).

As a general rule, Lederer and colleagues underline that although estimates on the dimensions of irregular immigration are frequently mentioned in public debate, they are hardly sound and cannot be used as basis for political decision making (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 5). Accordingly, the contributions by Lederer and colleagues rather focus on the presentation of available data from public authorities, discuss the weakness of the current data material, consider and design approaches to get more reliable assessments – but abstain from own calculations of any figures of irregular immigrants.

The “multi-dimensional approach” proposed by Lederer for a quantitative assessment of irregular immigration refers to nine indicators that may provide a basis for a more systematic assessment of the scope of irregular immigration – of those seven from control authorities. The indicators introduced and discussed were information (1) on suspects without legal status from PKS; (2) information on apprehension at the borders from Federal Police and PKS; (3) figures from Federal Police on apprehended human smugglers and smuggled persons; (4) information from PKS on persons suspect of trafficking; (5) PKS information on persons suspect of convenience marriage; (6) information from Federal Police and PKS on the use of

forged or falsified documents; (7) information from labour enforcement on sanctions for undeclared employment of foreign workers; (8) econometric studies evaluating the amount of shadow economy and estimating undeclared employment of irregular immigrants; (9) information from welfare organisations (Lederer 2004: 223f). With respect to the focus on data from control authorities Lederer concludes: “Taking the position of a radical methodology it could be argued that the increase of indicators only mirror the increase of control activities and that higher figures are only state authority artefacts and do not relate to the reality of immigration. But this argumentation can be convincingly replied that also the non-state indicators (welfare associations and informal economy) direct into the same direction. But it is correct in principle that the absolute figures and growth rates of the migration control distort reality” (Lederer 2004: 239).

Lederer (Lederer 2004) was rather reluctant to provide a calculation in his seminal study. The only provided figure refers to the number of foreign nationals apprehended in the interior without a regular residence status and registered in the Criminal Police Statistics as criminal offenders with the residence status “illegal stay”. Lederer argued – explicitly following Vogel - that this figure of detected cases (“Hellfeld”) can be definitely perceived as minimum level of stock of irregular immigrants in Germany. But it is impossible to qualify any multiplier in order to get an estimate for the field of undetected cases (“Dunkelfeld”). In spite of the reluctance to give an estimate the work of Lederer established the basic for the debate in Germany and is frequently referred to because he gives a full and critical account of available approaches and sources and developed proposals for a more transparent and methodologically controlled assessment of the volume of irregular immigration. The pioneering work still provides the methodological ground for the migration report and other reports and documents issued by the BAMF, among the (still unpublished) account on the “Amount and Structure of Illegally Residing Population in Germany” prepared on demand of the Federal Ministry of the Interior (BAMF (Bundesamt für Migration und Flüchtlinge) 2006). This study gives an encompassing examination of the available statistical accounting on unauthorized immigration in Germany and probable data sources that may provide information or “traces of information” on irregular immigrants.

### **1.1.3 Considerations presented by Jörg Alt**

The third relevant scholar dealing more systematically with the question of a quantification of irregular immigration in Germany is *Jörg Alt*. As a Jesuit Padre trained in social research he did extensive qualitative research on irregular immigration in Germany since the mid-1990s. He published his material and his considerations in two voluminous books (Alt 1999 and 2003) and several papers. Among other issues, he dealt with quantitative assessment of irregular immigration in Germany. He is the only scholar who was not reluctant to present to the public figures on the amount of irregular immigration in Germany and also in particular German cities, including Leipzig, Munich, Cologne, Hamburg or Frankfurt (Main). In his books and more extensively in a web-published paper presented first in 2001 and revised several times until 2004 he explains how he derived estimates through a consideration of information from field research, secondary analysis of available and unpublished public data and the collection of expert opinions (Alt 2004).



Like the other relevant scholars, Alt stresses that currently no reliable approaches are available for an assessment of irregular population. Alt explained that he found in the course of his study that some representatives from authorities in Germany used to apply a simple multiplier method by multiplying the number of apprehensions of unauthorized immigrants on the border with a factor three or five in order to get a figure of immigrants that have entered Germany (Alt 1999: 48). Alt raised three reservations against this approach: First, the statistics on unauthorized entry are case registers and one irregular immigrant that was two times or often apprehended when trying to enter will cause accordingly more than one statistical entry. Second, the number of apprehensions is related to the control intensity and the figures say more about the control efforts than about the dimensions of irregular immigration. Third, taking into account that also irregular migrants that were apprehended when leaving the country were probably registered as irregular entry too this will increase the figures (Alt 1999: 49; (Alt 2004: 1). Alt underlines that changes in the level of apprehensions have to be checked for the variable of control intensity (Alt 2004: 2). He introduces then – with reference to a Dutch study that has assessed the share of irregular immigrants in Amsterdam and Rotterdam with up to 5% - the assumption that in larger German cities with more than 200,000 inhabitants the share of unauthorized population with a life focus in Germany is about 1-2% (Alt 1999). In a later statement he even assessed that about 1-3% of the population are irregular immigrants. To this stock of permanent irregular migrants the foreign nationals that enter without required permission only for shorter periods have to be added (Alt 2004: 4). Alt refers also information from representatives of Catholic immigrant parishes in Germany that gave him the cause to believe that about 1.3 million unauthorized immigrants lived in Germany. Although Alt convincingly argued that currently no reliable estimates can be reached, he ends the paper with the guesstimate that according to his opinion the stock of irregular population was before the EU enlargement about 1.5 million persons – of those two thirds men and one third women (Alt 2004). Considering the EU enlargement, he stated that the stock of irregular immigrants in Germany remained even after the accession of important countries of origin for irregular migrants in Germany like Poland and Romania – a de facto regularisation – at a level of about 500,000 to 1 million persons (Alt 2004).

#### **1.1.4 Summary**

The review of the most relevant academic literature on the counting and statistical accounting of irregular immigration revealed a particular pattern of reasoning that is typical for all academic studies that specifically tackle the question “how many irregular immigrants are in Germany”. As a rule, authors use to underline that there are neither reliable figures available nor reliable methodologies to gain or produce robust figures. Then, authors use to introduce sources that include information or at least “traces” of irregular immigration in Germany and discuss more or less extensively the weaknesses of these sources and consider methodological operations in order to improve the methodology and to get more reliable estimates. Some authors discuss additional information from welfare associations or expert opinions in order to consider the amount of irregular immigration in Germany. Some academic authors finally comply with public expectations and present any figure by quoting figures already circulating in the public debate and commenting on this figure as quite unconfident or probable.

Currently, the standard statement says that the number of irregular migrants in Germany is somewhere between 100,000 and 1 million persons (BAMF (Bundesamt für Migration und Flüchtlinge) 2006).

For the purpose of the CLANDESTINO report the sources the mentioned authors used to refer to are of particular interest. Therefore, the following section will shortly introduce the mentioned sources in a more systematic manner and discuss special features of the collection and administering of the data that affect the quality and reliability.

## **1.2 Data quality and reliability**

Information provided in administrative statistics, by charity organisations or qualitative research is extremely diverse and a combined consideration as suggested in the multiple-indicator-use approach proposed by Lederer is extremely difficult or (for the use of particular data sources due to inconsistencies and overlapping) impossible. Since the subsequent compilation of available information on stock and flow data in part II requires a careful and critical handling of the data, this section 1.3 aims to make the reader familiar with the special features that characterise the data in order to enable a critical reception and handling.

### **1.2.1 Considering data from Federal Police**

*Relevance:* Data provided by the Federal Police are mainly relevant for the estimation of flows including irregular entries but also refusals, rejections, removals and deportation. The data of the Federal Police is mainly related to apprehensions of persons who are suspected of unauthorized entry. Persons that were apprehended - by the Federal Police or other authorities in charge of border control - when trying to enter or to leave without required permissions are registered in the statistic on unauthorized border crossings. The data includes apprehensions on the land- and sea-borders, on airports and also in the interior. The Federal Police data provide at aggregate level information on nationality, age, place of apprehension, or circumstances of irregular entry (cases of human smuggling).

*Information on the data provider:* The Federal Police – previously Federal Border Guard - is a Federal agency with headquarter in Potsdam in charge of border enforcement and surveillance of persons using the national transport infrastructure including railway and air traffic ([www.bundepolizei.de](http://www.bundepolizei.de)). In 2005 the Federal Border Guard (Bundesgrenzschutz) was reorganised and received the new name Federal Police and a rearrangement and extension of tasks. It is an armed police force and Federal Police officers are entitled to apprehend suspect persons and to initiate and conduct investigations in the area within the responsibility of the Federal police (border related offences like irregular entry, human smuggling and trafficking).

*Information sources:* The Federal Border Guard used to publish annual activity reports on the activities and results of the agency, among the information on apprehended immigrants suspect of irregular entry, the involvement of human smugglers and the number of refusals,

rejections, removals and deportation. Information on irregular border crossing was published until 2002 by the Federal Ministry of the Interior in the annual report of the Federal Border Guard. But since 2003 there is no separate report available. The successor organisation Federal Police does not publish activity reports anymore. Information on the activities of Federal Police in the field of migration control is included now in the annually published migration report by the Federal Office for Migration and Refugees (BAMF) on behalf of the Federal Government.

*Particularities of data:* The data provided by the Federal Police is characterized by special features that restrict and complicate its use for a systematic assessment of the scope of irregular immigration.

(1) *Bounded process data:* The data consists mainly of statistics that documents the activities of the Federal agency and the statistical accounting pursues several, partly conflicting aims. On the one hand, the information accounts on the work and the results of the Federal Police, it is *process data*. The main purpose is to display the performance of the organisation. In correspondence with the aim to display the activities of the agency the Federal Police data consists of incoming statistics (Eingangstatistik). This means that every case of suspicion is recorded and accounted regardless whether the suspicion is later confirmed or turned out to be erroneous.

(2) *Information on detected cases:* On the other hand, the Federal Police forces collect also information on the characteristics of apprehended suspect persons, among the place of apprehension, the nationality, age and gender of the apprehended, the possession of documents and the legal status. The main aim of this data collection is an aetiological analysis in order to display recent trends in irregular migration in order to promptly respond to it. But official statistics are control data – it only accounts on detected cases – while features of undetected cases (Dunkelfeld) remain unknown (BAMF 2006: 24). Thus, the information provided by the Federal Police illuminates only detected cases (Hellfeld). There is no clear evidence whether detected cases are consistent with undetected cases (Dunkelfeld) or not. The idea that detected cases provide a representative profile of the undetected cases is rather arguable. For example the findings from detected cases show that some nationalities are more involved in the use of human smugglers or forged or falsified documents than others. Moreover, the situation seems to constantly change from one year to the other.

(3) *Control data:* The most important implication of the fact that Federal Police provides *process data* is the dependence of the amount of detected cases in absolute figures depends on the frequency and intensity of control activities. The results are contingent on the intensity of control (amount of control staff; the average control intensity of the staff, the control strategy). Due to the interconnection of the quantitative level of detected cases of irregular entries with control frequency and intensity it is not possible to take the figures published by Federal Police as an immediate proxy for the amount and trend of irregular entries. Increasing and decreasing trends in irregular entries may display empirical developments but also changes in the frequency and intensity of control work. The interpretation of the data could be improved by additional information on the frequency and intensity of controls conducted by Federal Police. But currently there is no clear approach how to get to a reliable multiplier. It is

also arguable if information on the number of enforcement officers could serve as a proxy for the intensity of control because some officers are occupied with administrative work and the investigation strategy may change.

(4) *Case register*: Related with the nature of process data it is also important to note that the Federal Police does mostly provide statistics on persons but on cases. On the principle of indication (*Meldeprinzip*) each case of suspicion is registered. Accordingly, persons that have been several times apprehended with the suspicion of irregular entry will enter into the statistics as a new case again. There is no clear information and probably no approach to calculate the share and frequency of multiple registrations of individual irregular immigrants suspected of irregular entry.

(5) *Terminological inconsistencies*: Another aspect that complicates a clear interpretation of Federal Border statistics is a terminological inconsistency. The irregular border crossing statistics include not only persons apprehended at the border when attempting to enter without required permissions. In the Police criminal statistics, also persons apprehended in the interior by the Federal Police or other authorities are included, provided that the control authorities can prove an irregular border crossing of this person within the last six months. Thus, in the case of interior apprehensions those cases are only counted as irregular entries that can be identified to have crossed the border within the last six months – otherwise they are reported to the police statistics as case of irregular stay. Since 1, January 2001 the Federal Police is instructed to consequently investigate if irregular migrants apprehended in the interior have crossed the border without required permissions within the last six months. The BAMF consequently concludes that this is an explanation why the number of irregular migrants with the suspicion of irregular *stay* apprehended by the Federal police decreased significantly since 2001 (BAMF (Bundesamt für Migration und Flüchtlinge) 2006). But this may not be the only explanation. If the stock of irregular migrants also decreased this may be an indicator that this also reflects a real trend.

(6) *Exits maybe included*: This categorisation of irregular entry is also applied in the case of irregular migrants who try to leave the country. Also irregular transit migrants who only tried to trespass Germany may be included. Thus, statistics on irregular entries (and also stay) may include cases of irregular immigrants that attempted to leave the country. There is however no reliable information how many irregular emigrants were counted.

(7) *Inconsistent implementation*: Another sensitive point that influences the data quality concerns the implementation. For illustration we may consider the aforementioned case of an irregular migrant who was apprehended at border crossing points when trying to leave the country. The BAMF underlined that only those cases are reported as irregular entry that can be characterised without doubt as an attempt of irregular entry. Otherwise, these persons will be registered as irregular stay (BAMF (Bundesamt für Migration und Flüchtlinge) 2006). This opinion is confirmed by representatives from State Criminal Police in Hamburg who explained that the exits of irregular immigrants are normally registered as irregular stay. However, there remains some discretion for front-line officers how they will categorize an individual case. The categorization of an apprehended immigrant without required permissions may depend on the work-load of the enforcement officer and the reaction of the

suspects. Jörg Alt supposed that in case of mass apprehensions only the removals are reported (Alt 2005:3).

(8) *Inconsistent and overlapping registration with other data sources:* The Federal Police (formerly Border Guard) reports the apprehensions to the PKS. This notification concerns however only the files reported to the public prosecutor (outgoing statistic). Accordingly, the number of cases and persons reported to the PKS is lower than internally registered number of cases. Therefore, there used to be inconsistencies between reports published directly by the Federal Police and reports based on criminal statistics (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 15)

### 1.2.2 Considering data from Labour Inspection

*Relevance:* The FKS (Finanzkontrolle Schwarzarbeit) provides statistical accounting on labour enforcement and is considered in all relevant studies mentioned as an important probable information source on irregular immigration.

*Information on the data provider:* The competent authority for labour enforcement is the Federal Customs – Department for Financial Control and Undeclared Employment (Finanzkontrolle Schwarzarbeit – FKS, henceforth FKS). The FKS conducts worksite controls and paper cross-checking in order to detect violation of tax, social security, statutory standards and work permit regulations. The FKS controls the identity of all persons met on a worksite and checks in case of foreign nationals also residence and work permits. Labour enforcement is since 1991 a task of Federal Customs. With the development of the European freedom of movement in the Schengen zone the loss of border control tasks was partly compensated by the responsibility for labour enforcement. Since 2005 the Federal Customs is the main agency for labour enforcement and took over the labour inspectors from other agencies who were before also active in labour enforcement. Currently, the Federal Customs employ about 6,500 labour inspectors.<sup>1</sup>

*Information sources:* The Federal Customs provides only selected aspects of its activities in annual statistical activity reports<sup>2</sup> and also on the FKS website.<sup>3</sup> The activities and developments of FKS are also introduced in the “report on the combating of undeclared employment (Schwarzarbeit)” periodically published by the Federal Government. Recently, the Federal Accounting Office (Bundesrechnungshof) has compiled and critically considered the information provided by the FKS including the information on undeclared employment of foreign workers.<sup>4</sup> Besides, the FKS agencies use to inform occasionally in press releases on the results of single enforcement activities.

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<sup>1</sup> (see [www.zoll.de/d0\\_zoll\\_im\\_einsatz/b0\\_finanzkontrolle/index.html](http://www.zoll.de/d0_zoll_im_einsatz/b0_finanzkontrolle/index.html))

<sup>2</sup> [http://www.zoll.de/g0\\_publikationen/a0\\_broschueren/index.html](http://www.zoll.de/g0_publikationen/a0_broschueren/index.html)

<sup>3</sup> [http://www.zoll.de/d0\\_zoll\\_im\\_einsatz/b0\\_finanzkontrolle/10\\_statistik/index.html](http://www.zoll.de/d0_zoll_im_einsatz/b0_finanzkontrolle/10_statistik/index.html);

<sup>4</sup> <http://www.bundesrechnungshof.de/veroeffentlichungen/sonderberichte/schwarzarbeit.pdf>

*Particularities of data:* The data provided by the FKS is characterized by special features that restrict and complicate its use for a systematic assessment of the scope of irregular immigration.

(1) *Bounded process data:* The data mainly serves the purpose to document the activities of this Federal agency and is affected by the same weaknesses as discussed under Federal police data (see 1.2.1).

(2) *Scarce information on detected cases:* The Federal Customs requires the FKS to collect only little information on the characteristics of apprehended persons. Official information provided by FKS is control data – it only accounts on detected cases – while features of undetected cases (Dunkelfeld) remain unknown (BAMF 2006: 24). There is considerable evidence that the field of detected cases is not consistent with the field of undetected cases (Dunkelfeld). One argument is that the FKS is not in charge to control private households – an area that is perceived to be an important informal labour market for services provided by migrant workers without a residence status (Lutz 2007, Rerrich 2006). On the other hand, FKS use to focus on sectors prone to undeclared employment like construction or catering. The frequency of labour inspections in particular industrial sectors – the risk of control – is moreover dependent on political sensitivity: Trade unions and some employers' associations use to demand more labour inspection in particular industrial sectors, mainly in construction. On the other hand, some areas like private lessons or personal services are hardly tackled. Accordingly, the risk of control is unevenly distributed and this may influence the probability for undeclared work.

Another aspect that influences the output of control work is the agency of immigrants and their supporters. Research indicates that more experienced irregular migrant workers are aware of the uneven distribution of control risks and prefer employment areas less kept under surveillance (Cyrus & Vogel 2006). More “experienced” irregular migrant workers prefer to work for private households in response to the intensification of control activities on work-sites. Also employers develop circumventive strategies and by-pass law with semi-legal strategies like bogus outsourcing or bogus contracting of workers officially declared to act as self-employed (Cyrus 2006). Also irregular immigrants may respond to the intensified control activities and rely on borrowed or false papers. The interaction of control intensity and strategies to cope with control risk has to be taken into account in the interpretation of labour market data.

(3) *Control data:* Due to the interconnection of the quantitative level of detected cases of undeclared employment with control frequency and intensity it is not possible to take the figures published by FKS as immediate proxy for the amount and trend of undeclared employment of foreign workers. Increasing and decreasing trends in irregular entries may display empirical developments but also changes in the frequency and intensity of control work. The interpretation of the data could be improved by additional information on the frequency, strategy and intensity of controls conducted by labour enforcement (Cyrus 2002: provide some information).

(4) *Statistics on offences:* It is important to note that the FKS does not provide statistics on persons but on offences and investigations. On the principle of indication (Meldeprinzip) each suspect person is registered with respect to a related offence. The apprehension of one suspect may cause more than one entries in different statistics. For example, a third country national under suspicion of undeclared employment may be suspected of unauthorized employment and irregular entry or stay. Suspect foreign workers without a legal status should be handed over to state police and will be registered by the state police as suspect irregular immigrant again. There is no clear information and probably no approach to calculate the share and frequency of multiple registrations of individual irregular immigrants suspicious of undeclared employment.

(5) *Inconsistency of categories:* Another aspect that complicates a clear interpretation of FKS statistics is a terminological inconsistency. The FKS statistics refers with the term undeclared employment of foreign workers to two different situations: On the one hand, the undeclared employment refers to resident foreign workers that do not possess a work permit but live in Germany officially. On the other hand, the term covers also foreign workers working in Germany without a residence permit and performing employment without the required work permit. Formerly, labour enforcement did not even distinguish between offences of employers and employees. But in the meanwhile the offence “undeclared employment” is accounted with a distinction of employer and employee and German or non-German nationality. However, the labour enforcement does not provide data on the nationality of apprehended irregular migrant workers. Also with respect to the imposed sanctions in this area the FKS does not provide information how many sanctions concern employers and how many foreign workers (BRH (Bundesrechnungshof) 2008: 31). Accordingly, experts use to underline that the data from labour inspection cannot be used for a methodologically controlled estimate of irregular migrants.

(6) *Inconsistent implementation:* Another sensitive point that influences the data quality concerns the implementation. As a rule, undeclared employment without required residence and work permit is a penal offence. Labour inspection should hand over the suspect irregular migrants to the state police which investigate the case of irregular entry or stay and report to the PKS: However, in some cases due to scarce capacities the state police do not come for apprehended irregular workers and in this cases the passports of the workers are confiscated and they are asked to turn to the foreigners’ office. If the person does not show up or if foreigners’ office immediately issue an exit order the person is not reported to the PKS as irregular immigrant (Cyrus 2002).

(7) *Inconsistent and overlapping accounting with other data sources:* As already indicated, the data from labour enforcement overlap partly with the data from the PKS. This concerns in particular the cases of third country nationals apprehended without a residence permit. But taking into account the inconsistencies in the implementation it is difficult to assess the number or share of apprehended irregular migrants that will be handed over to the state police and therefore enter as a case into PKS and those handed over to the foreigners’ office and directly expelled or deported without being reported as a case to the PKS.

### 1.2.3 Considering data from Police Criminal Statistics (PKS)

*Relevance:* The Police Criminal Statistic (Polizeiliche Kriminalitätsstatistik – PKS, henceforth PKS) is a compilation of all concluded criminal investigations and provides information on apprehended suspects reported to public prosecutors. Among other information, the PKS includes information on persons suspected of the offence “irregular stay” (key 7257) and “irregular entry” (key 7251). The PKS offers both information on cases and on persons and provides information on nationality, age and gender of suspects.

*Information on the data provider:* The Federal Criminal Office with headquarter in Wiesbaden is the police agency at national level that investigates in criminal offences of national relevance ([www.bka.de](http://www.bka.de)). Apart, it conducts criminological research and runs the Police Criminal Statistic (PKS). The Federal Criminal Office only assembles the PKS from the reporting of criminal police in the Federal states and the reporting from the Federal Police.

*Information sources:* The ongoing volumes of the PKS are available for every year on the website of the Federal Criminal Office. (<http://www.bka.de/pks/>).

*Particularities of data:* The data provided in the PKS by the Federal Criminal Office is characterized by special features that restrict and complicate its use for a systematic assessment of the scope of irregular immigration.

(1) *Bounded process data:* The Police Criminal Statistic is a process statistic that accounts on every case of suspicion that is recorded by the police to the public prosecutor (Ausgangsstatistik). The main purpose of the PKS is to provide information for a criminological analysis of composition and trends in crime and also as indicator for accomplished police work. This means that only those cases of suspicion which are confirmed by police investigations are included in the PKS. As a matter of fact not all suspect persons will be sentenced later.

(2) *Focussed information collection:* The PKS is a data source on cases and on persons. The PKS provides some detailed information on registered suspect persons on an aggregate level, including age, nationality or gender. With respect to the information on offences among other things the features of the suspects for these offences are displayed. The PKS data is presented in electronic source that allows a correlation of several characteristics of suspect with characteristics of offences. The information on the individual features of suspect persons allow some conclusions on the demographic composition at least for detected cases of irregular immigrants.

(3) *Control data:* The PKS consists of control data – it only accounts on detected cases – while features of undetected cases (Dunkelfeld) remain unknown (BAMF 2006: 24). Thus, the information provided by the PKS covers only detected cases (Hellfeld). The detected cases depend on the frequency and intensity of police investigation and on the willingness of victims and witnesses to file a charge. As a matter of fact, since irregular immigration is widely a so called “crime without victim” the amount and trend of detected cases depends



mainly on the frequency and intensity of control and investigation. There is no clear evidence if the field of detected cases is consistent with the field of undetected cases or not (Dunkelfeld). For example, while qualitative research indicates a certain level of irregular immigration from Latin America this is not mirrored in the official criminal statistics. One reason may be that due to research biases the irregular immigration from Latin America receives above average attention in qualitative research. On the other hand it could be the case that irregular immigrants from Latin America manage to organise underground survival in a way that avoids raising attention of control agencies. Latin American immigrants may work as private language teachers, dance masters, musicians or as domestic workers in less controlled private households. The interaction of control intensity and strategies to cope with control risk has to be taken into account in the interpretation of the PKS. But there is no reliable approach in order to generalize from the detected cases to the total of irregular immigration.

*(4) Multi-dimensional accounting on offences and suspects:* As a person statistic the PKS registers a persons only once in a year in one Federal state (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 14f). This rule however does not exclude that an irregular migrant may be counted in two different Federal states in one year. Double counting is possible in so far that a person is apprehended by different state police forces for example first in the Federal state Brandenburg and later in the Federal state Berlin within one year. In this case, the same person enters through the two involved federal state registers two times in the PKS. Since the PKS reports the date a case is reported to the public prosecutor it may be the case that an irregular migrant apprehended in one year is documented only in the PKS of the subsequent year. There is no clear information and probably no approach to calculate the share and frequency of multiple registrations of individual irregular immigrants suspicious of irregular entry. Another source for inconsistency difficult to assess is the discrepancy between the registration of irregular entry in the incoming statistic provided by the Federal Police and the reporting of the case after investigation to the outgoing PKS statistic.

*(5) Categorical inconsistency:* For all foreign national suspects, PKS records whether their residence is considered regular or irregular. This information about persons is not systematically related to the information about offences. As a matter of fact, the information on the offence irregular entry and irregular stay includes as suspects also German nationals and foreign nationals with regular residence status which committed the offence as accomplices. Any interpretation has to adjust these categories accordingly. The PKS does not offer the necessary information to clarify. Unfortunately, with respect to the offences “irregular entry” and “irregular stay” the Federal Criminal Office only published information concerning the German or Non-German nationality of suspects and does not provide a more sophisticated account. But publications from the BAMF indicate that the nationality of persons suspicious of the offence “irregular entry” or “irregular stay” is in principle available.

*(6) Inconsistent implementation:* Another sensitive point that influences the data quality concerns the implementation. Depending on the state police regulations, PKS data may be entered by special officers who read the data delivered by front-line officers into the computer software or by front-line officers themselves. The technical registration and data processing seems to be rather inconsistent. For example the change of the data processing software in

Brandenburg caused that data of about 16,000 investigations from 2007 were not included in the new software which caused a considerable delay and may also have impacts on the data quality for this year.<sup>5</sup> There are differences between the Federal states, and also within a Federal state and there may be situations when police officers perform a rather arbitrary registration.

(7) *Inconsistent and overlapping registration with other data sources:* As already indicated, the PKS consists of data from persons or cases which are also included in other statistical accounting from Federal Police or labour enforcement. Due to the inconsistent implementation it is not fully clear to what extent the data overlapping can be identified and adjusted.

#### **1.2.4 Considering data from BAMF**

*Relevance:* The Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge – BAMF, henceforth BAMF) is the central agency for the preparation and presentation of migration related official data that includes traces of irregular immigration and is important for the interpretation of data on irregular migration.

*Information on the data provider:* The BAMF was established in 2002 as the successor organisation of the “Federal Office for the Recognition of Foreign Refugees” and is a federal agency subject to the directives from the Ministry of the Interior. It is responsible among other things for the central foreigners’ register, the processing of asylum procedures, the implementation and supervision of the programmes for integration courses. The research department of the BAMF publishes studies and literature reviews on integration and migration issues and consults politics. The BAMF is the responsible authority for the compilation and presentation of migration related information and statistical data and prepares the annual migration report (see [www.bamf.de](http://www.bamf.de)).

*Information sources:* The BAMF prepares the annual migration report that is mainly a quantitative report with careful explanations of the categories of migrants. These reports compile also data from Federal Police (on unauthorized entry and deportation), Federal Criminal Office (on unauthorized stay). With respect to the statistical accounting on irregular immigrants the BAMF itself provides statistics on asylum procedures, EURODAC procedures and return programmes. With respect to irregular immigration the BAMF prepared a special study on behalf of the Federal Ministry of the Interior summarizing available data from authorities and other institution and dealing with the quantitative assessment of irregular migration in Germany (BAMF (Bundesamt für Migration und Flüchtlinge) 2006).

*Particularities of data:* The relevant original data from the BAMF concerns mainly the information from the central foreigners’ register including an account on figures of tolerated migrants, information on status changes and the data on the processing of asylum

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<sup>5</sup> [http://www.welt.de/welt\\_print/arti2269556/Brandenburgs\\_neuer\\_Polizeicomputer\\_verschluckt\\_Daten.html](http://www.welt.de/welt_print/arti2269556/Brandenburgs_neuer_Polizeicomputer_verschluckt_Daten.html)

applications. As a matter of fact, this data is only indirectly related to irregular migration. On the one hand, the assumed link between asylum application and tolerated stay and irregular migration means that some irregular immigrants may come in contact with German authorities and surface from irregular stay (by applying for asylum or because health problems justify that a toleration is granted). But the link may also work into the other direction because tolerated immigrants or rejected asylum seekers may go underground when a regular status expires and they have established contacts and support that enable an irregular stay. However, there is no reliable information on trajectories into and out of toleration or asylum procedures. The data on asylum procedures is mainly of interest with respect to an assumed connection of an increase of the stock of irregular migrants in response to the rejection of asylum applications. The information on the remaining of rejected asylum seekers is however not clearly documented. As in the case of other authorities, the original data from BAMF is mainly process and control data, and some double counting may take place when for example a rejected asylum seeker receives toleration because he or she cannot be deported. Thus, the person is counted in two different statistics of BAMF in one year.

### **1.2.5 Considering data from charity organisations**

*Relevance:* Some charity organisation like *Caritas* and *Diakonisches Werk* provided one-time surveys asking for irregular immigrants among the clients of the charity services. Additionally, some few special advice centres that offer services for irregular immigrants inform in their activity reports continuously about the share, composition and special needs of clients without a legal status. And also NGOs that observe the situation of irregular migrants compile available information and advocate in favour of irregular immigrants.

*Information on the data provider:* The non-governmental providers of information on quantitative trend and composition of irregular immigration in Germany are mainly the German Catholic Caritas association, the Jesuit Refugee Service, the Diakonisches Werk and some of their member advice centres. Additionally, some few left-wing organisations collect and provide information that may be relevant for the interpretation and assessment of statistical accounts.

*Information sources:* The information provided by charity associations is mainly published in professional working papers, journals or circulate as web-publications. A first survey on the share and composition of irregular immigrants among clients of Caritas services was conducted in the mid 1999s (Schäfers 2005). The Diakonische Werk followed with a similar survey in the early 2000s (Sextro 2003, Sextro et al 2002). Information on single advice centres are provided for example by (Weber 2008), (Franz 2006, Schmitt 2007).

*Particularities of data:* The information from authorities and welfare associations are often *process data* with the main purpose to document the work of the institution and not the exact number and characteristics of clients. It is difficult to assess the reliability of the data. With respect to the surveys conducted by Caritas and Diakonische Werk the main problem is that the surveys were only one-time actions. Moreover, the surveys were restricted to services

specialised in immigrant counselling. Accordingly, the results cannot be generalized. The return of questionnaires is not controlled. It remains unclear why some approached services did not participate in the survey. It may be the case that the issue did not matter because the advice centres did not have clients without a legal status or they did not participate in the survey because they feared that making public a high share of irregular immigrants among clients may cause problems. Therefore, the main insight from these surveys was that there is a considerable presence of persons without irregular status in Germany.

This insight is also confirmed by the activity reports of the few advice centres that dare to inform about the clients without a legal status (Schmitt 2007, Weber 2008), (Franz 2006). The main methodological problem here is that the advice centres are probably specialised to offer services for irregular immigrants and therefore they are by no means representative. Another problem related to the activity reports of single advice centres is the fact that they use to have a special focus with respect to nationality (for example Latin American, African or Asian immigrants) or with respect to gender. As a matter of fact, irregular female migrants are the majority among clients of advice centres. This data seems to correspond rather with the special focus of services than to mirror the composition of irregular population. A last point is the fact that also in the case of advice centres the double counting of clients without regular status cannot be excluded. Field research showed that irregular immigrants who look for support use to visit more than one service (Cyrus 1995).

Finally, some left-wing NGOs tried hard to collect information about the number of irregular immigrants dying at the borders when attempting to enter without permission. However, the NGOs compile their information mainly from news-paper coverage and it remains unclear if every case of death on the border is reported by media and if every media report is captured.

To summarise, the publication from charity organisations and NGOs provide important information that irregular immigration is a relevant issue in Germany and which characteristics matter. However, the focussed attention in particular from specialised services may create the impression of a significance that exceeds the empirical facts.

### **1.2.6 General considerations**

The available information from public authorities and welfare associations are mainly bounded process data. As a rule, official statistics depend on control activities while the information from charity organisations depend on voluntary contacts. In both cases the information remains restricted to the known cases. The amount and the characteristics of known cases are highly dependent on the activities of the organisation that provides the information. In the case of official authorities the frequency and intensity of control and surveillance matters. In the case of charity organisations the information depends on the kind of offered services and network effects. As a rule, there is no reliable approach to conclude from known cases on unknown cases. The chances to make generalizations from known cases could be enhanced with a provision of context information on the implementation of data registration and the handling of data. However, there is no clear description of implementation

practices. The information about the context of data creation, data registration and data processing is often missing.<sup>6</sup> For example, the data of labour inspection includes cases of undeclared employment of foreign nationals – but it remains unclear if a person is living without a status or not. Also in the case of charity organisations it remains as a rule unclear if the person introduced as irregular migrant is a third-country national or an EU-citizen.

Moreover, the information sources use different definitions and account on more or less different categories. This makes the available statistical material and the information from research studies and welfare associations extremely inconsistent and prevents a transparent application of methodologically controlled operations.

As a general rule, the concept of irregular migrant is an extremely fuzzy concept and also the statistical representation of this term is rather fuzzy. Among the reasons, the statistical registration procedure is different for incoming and outgoing statistics (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 15). The implications of different practices have to be continuously considered in the interpretation of available information.

There is also an open question about the apprehensions on the borders. As a general line the BAMF presents the data as irregular entry but it may be the case that some apprehensions are related to attempts of irregular transit migrants to leave the country or to apprehensions in the interior. The fuzziness is further increased by the fact that some statistics account on stock data to a fixed date without any information about the inflow and outflow of cases; while other statistics do account every case or event within a fixed period of normally a month or a year. In this case an irregular immigrant that has tried to enter Germany again after apprehension and refusal may be counted several times.

This remarks underline that the suggested multi-dimensional approach of a combined consideration of available information has to take into account many inconsistencies that may cause distortion or measurement mistakes if not appropriately taken into account.

### 1.3 Summary

In Germany, an intensive discussion about the quality and reliability of available data in the area of immigration and integration appeared in the last years. Beginning with a critical assessment of available data in several official reports, among the Migration Report (1998), the report of the Independent Expert Commission on Integration and Migration (UKZ (Unabhängige Kommission Zuwanderung) 2001) and the report of the Expert Council on Migration and Integration (Sachverständigenrat für Zuwanderung und Integration 2004), the question how to improve the data is a constant issue in the debate. The situation is summarized by Sonja Haug: “It is not the primary problem that no data sources exist. Rather

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<sup>6</sup> Accordingly, one requirement for a reliable statistical accounting is the proper registration of residence status and nationality in the registers of labour inspection and police as proposed by the BRH (Bundesrechnungshof). 2008. *Bericht nach § 99 BHO über die Organisation und Arbeitsweise der Finanzkontrolle Schwarzarbeit (FKS)*. Bonn: BRH.

there are a number of various data sources and measuring instruments. – There is a lack of consensus in central concepts, indicators and measuring methods of integration” (Haug 2005: 5).

Although this statement refers to the available data on legal migration and integration it holds also true with respect to the data in the area of irregular immigration. Critical review of available data and information underlines the problems entailed with the data on unauthorized immigration. As a general line, all academics use to emphasize that the data situation is rather poor and that general problems exists which prevent a direct use of available data.

All these aspects make it extremely difficult if not impossible to get a clear-cut picture. As a rule, the hitherto available serious academic studies use to point to the difficulties and methodological intricacies in the measuring of unauthorized immigration, deal with methodological questions and ask how to get better assessment, and at the most present estimates of the number of irregular immigrants.

Against the background that a number of statistics include “traces” of unauthorized immigrants, this report aims to give an overview of existing data sources and to provide some critical assessment of these sources. The account follows the structure preset by the standards of the CLANDESTINO project.

## 2. Estimates, data and expert assessment on stocks

This chapter deals exclusively with information and available data on the stock of irregular immigrants in Germany. Information related with the flow of irregular immigrants is introduced and considered in chapter 3.

### 2.1 Total stocks

Current estimates on the stock of irregular immigrants in Germany range from 100,000 to 1 million persons. This large difference presented in official documents (BAMF, BMI) underlines that there is no authoritative assessment available which can claim general credibility. The BAMF mentions that official documents dealing with irregular immigration deliberately abstain from presenting any figures on the total stock of irregular population. Obviously, the figures refer more or less openly to the work delivered by the researchers already mentioned above.

#### 2.1.1 Stock

The minimum figure of 100,000 irregular immigrants was introduced by Vogel (1999) and Lederer (2004) while the figure of 1 million irregular immigrants appeared during the 1990s in media and was introduced as a probable amount among others by Cyrus (Cyrus 2004). A higher figure of 1.5 million irregular immigrants was introduced by Jörg Alt for the period until 2004 and later reduced to 1 million after the EU accession of some important countries of origin for irregular immigrants (Alt 2004).

The minimum figure of 100,000 refers to the PKS data on apprehensions of irregular immigrants with a multiplier factor 1 in the mid-1990s. Obviously, Vogel as well as Lederer argue very cautiously. They are more concerned to provide an example how estimates could be generated than to present an estimate as such. Since the focus is on methodologically questions, they do not serve the interest to present a (high) figure of irregular immigration. Accordingly, the source and calculation method for the minimum figure is transparent, but obviously a rough underestimation because it is not realistic that police apprehend *all* irregular immigrants in one year.

On the other hand, the higher figures of 1 – 1.5 million irregular immigrants are presented without a transparent calculation. The figure of 1 million irregular immigrants, introduced for example by Cyrus, is not derived in a methodologically systematic approach but rather the result of a rough consideration of available statistical data and qualitative information. The figures of 1 – 1.5 million irregular immigrants are mentioned by Alt in a paper published in 2004 and cannot be explained as impact of competing definitions since Alt refers to irregular immigrants in the narrow sense. The main cause for the enormous differences is rather that

the systematic search for information on and cases of irregular immigrants gave Alt the impression that the phenomenon was much more wide-spread than he did anticipate. Drawing on information from charity, authorities and church communities he mentioned in one paper that the share of irregular immigrants is 1-3% (Alt 2004). This would mean that between 800,000 and 2.4 million irregular immigrants live in Germany. The figure of 1.5 million irregular migrants refers to the period before the EU enlargement in the year 2004. Thus, he suggested that before the EU enlargement the figure of 1 million was too low.

In this paper Alt gave an encompassing account of his calculation method. From this it is obvious that Alt used to compile all available information and to assess the relevance against the background of his intimate insights into irregular migration processes. Alt emphasized that even after the EU enlargement the stock of irregular immigrants remained between 500,000 and 1 million persons with an outspoken preference for the higher figure. He defended this estimate with the argument that the propensity for higher figures increases with the occupation with the subject: The more one is dealing with irregular migration the more one feels to raise the figure because always new aspects and dimensions of quasi-legal (bogus) or irregular residence show up. With reference to his experiences from field studies in Leipzig and Berlin Alt estimated that the share of irregular population in German cities with more than 200,000 inhabitants ranges between 1-2% - and estimated that the figure of irregular migrants in Germany is above 1 million persons (Alt: 1999: 50).

In a later paper Alt (2004: 7) even stated that the share of irregular migrants permanently living in large cities is about 2-3%. He argued that the EU accession have led to a de-facto regularization of some hundred of thousands irregular immigrants from the new member states but that there is still a considerable amount of people from Southeast Europe, the former Soviet Union, Latin America, Africa and Asia that justifies the estimate with a tendency rather to the one than to the half million. This means that the figure of one million reproduced after 2004 is already an adaptation to the situation after EU enlargement. Alt argued further that this figure is probably higher in the summer and below in winter due to the seasonal labour demand and the mobility patterns of irregular migrants. The account shows that Alt includes in his estimations only third-country nationals but includes also patterns of quasi-legal (bogus) stays (Alt 2004).

### **2.1.2 Stock trends**

According to the overall and widely shared opinion the volume of irregular immigration used to increase until 1998 but to decrease until 2003 and be more or less stable since then (table 10). Taking the “factor-one approach” as indicator for the minimum estimate introduced by Vogel and Lederer – i.e. the number of suspect foreign nationals without legal status as it is registered in the PKS with – this overall picture is supported.



**Table 9: Development of number of suspected immigrants with irregular status**

<b>Year</b>	<b>Suspect persons with irregular status (PKS)</b>
1993	103,529
1994	125,038
1995	131,456
1996	137,232
1997	138,146
1998	140,779
1999	128,320
2000	124,262
2001	122,583
2002	112,573
2003	96,197
2004	81,040
2005	64,747
2006	64,605
2007	58,899

Source: BAMF 2008: 163

Among the non-German suspects the share of persons without a legal status remained during the 1990s until 2002 at the level of about 20%. Since 2002 the share decreased and was in 2004 14.8% (81,040 persons) and 2005 12.5% (64,747) persons. Thus, applying the factor-one approach proposed for the calculation of a minimum level of irregular immigration, the number of apprehended suspects without a legal status seems to have decreased significantly in relative and in absolute terms. As a general rule, also the flow data from Federal Police indicates a decrease in the volume of irregular immigration since 1998 (see chapter 3). The decreasing trend was further strengthened by the accession of eight CEE countries that were before important origin countries of irregular immigration (in the narrow sense).

The BAMF proposed still another handling with the PKS data. Taking into account that the PKS data of suspect persons without a legal status consists of the apprehensions in the interior and on the borders the BAMF authors proposed to subtract the cases of irregular entry documented by Federal Police from the PKS data in order to clear double counting (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 15f). Since the apprehensions on the borders are new entries and do not live in Germany, it is said that they should be subtracted. This operation gives the following result (table 10).

**Table 10: Development and number of Non-German suspects without legal status**

<b>Year</b>	<b>Suspects without legal status (PKS)</b>	<b>Minimum stock of irregular immigrants</b>
1993	103,529	49,231
1994	125,038	93,973
1995	131,456	101,852
1996	137,232	110,208
1997	138,146	102,941
1998	140,779	100,578
1999	128,320	90,531
2000	124,262	92,777
2001	122,583	94,023
2002	112,573	89,935
2003	96,197	76,223
2004	81,040	62,825
2005	64,747	49,196

Source: BAMF 2006: 16; BAMF 2007: 146

The authors explain that the number of irregular immigrants that really lived in Germany was about 100,000 persons during the 1990s. Since 2003 a significant decrease is visible. The authors conclude that this could be taken as an indicator that the total stock of irregular immigrants has decreased (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 16).

Summary: The presented information on minimum estimates suggests that the stock of irregular immigrants in Germany did not increase since 1998 but stabilized on a comparatively low level. The main problem with the estimate remains that there is no safe approach to generalize from detected cases (Hellfeld) to undetected cases (Dunkelfeld). It could be possible that irregular immigration increased in areas not tightly controlled (for example undeclared employment in private households) or that some nationalities arise which are not yet identified as irregular migrants by police.

### **2.1.3 Stock data for few cities**

In the last years researchers conducted several local investigations on the situation of irregular immigrants. These studies use to contain also an indication of the estimated scope irregular migrants in the respective city (see table 11).

**Table 11: Estimates of irregular immigrants in Germany and German cities**

Number	Area	Year	Source
<b>Estimates on total stocks in Germany</b>			
100,000	Germany	Annual average for the period 1994-2000	(Lederer 2004)
656,000	Germany	1996	(Vogel 1999)
1.5 Million	Germany	Until 2003	(Alt 2001)
1 Million	Germany	Since 2004	Alt 2004
<b>Estimates on total stocks in German cities presented by Alt</b>			
40,- 50,000	Munich	2003	(Alt 2004)
20,000	Cologne	2003	(Alt 2004)
8,- 13,000	Leipzig	1998	(Alt 1999: 51)
100,000	Berlin	2000	(Alt 2004)
30,- 100,000	Hamburg	2002-2004	(Alt 2004)
25,- 50,000	Frankfurt (Main)	2001 (Alt 2004) 2004 / 2005	(Alt 2004)
<b>Total stocks of cities with reference to Alt</b>			
30,- 50,000	Munich	2003	(Anderson 2003: 15)
20,000	Cologne	2007	(Bommes & Wilmes 2007: 14)
25,- 50,000	Frankfurt (Main)	2001 (Alt 2004) 2004 / 2005	(IWBF (Institut für Weiterbildung 2006: 15)
<b>Other estimates on cities without reference to Alt</b>			
100,000	Berlin	2000	(Berliner Arbeitsgemeinschaft der Freien Wohlfahrtspflege e.V. 2000); (Alscher et al 2001: 4, Lederer 1999: 62)

Source: Alt 2004, BAMF 2006: 25; own compilation.

A closer reading of the studies shows that most studies did not undertake a methodologically controlled and systematic assessment but rather referred to figures already available and mainly introduced by Jörg Alt (2004). Therefore, it is mainly interesting to consider first how Jörg Alt explained in two books on irregular migrants in Leipzig (1999: 50-51) and Munich (2003: 55f) that he used to collect available public statistical data, the opinions from

interviewed experts and irregular migrants. For Leipzig he explained that he received estimates between 4,000 and 10,000 persons and that the assessment finally settled at the level of 8,000 irregular immigrants. This estimate of a relatively high percentage was supported by interviews with irregular migrant who independently confirmed that they knew several hundreds of irregular immigrants in Leipzig. Alt then estimated that in Leipzig about 8,000 irregular immigrants lived for the most time of the year and additional 5,000 irregular immigrants would live in Leipzig on a seasonal basis (Alt 1999: 50f). With the same approach he concluded that about 40-50,000 irregular immigrants live in Munich (Alt 2003: 55). Although Alt did not really explain how he weighted the used indicators the two local assessments are transparent and probable. On this basis he introduced the already mentioned assessment that the share of irregular population may range between 1-3 % in large cities. Against this background he compiles in his paper further expert estimates he had discussed with representatives from authorities in Leipzig (8-15,000), Munich (30-40,000) and Berlin (100-250,000) or took from media for the cities Hamburg (50-100,000), Frankfurt am Main (25-30,000), Bonn (4,000) and Cologne (20,000) as a minimum estimate (Alt 2004: 7).

However, these numbers do not exactly represent the indicated percentage to the population, so it seems that the population percentage has been taken as indicator and adjusted in an unclear manner, usually coming to higher figures. The wide range of estimates and sources indicate that these figures are not really reliable and derived with a transparent method. But notwithstanding the weak foundation of Alt's estimates the studies on Cologne and Frankfurt seems to have simply adopted the figures mentioned by Alt and did not undertake efforts to develop for their area of research a more systematic estimate as Alt did for Leipzig and Munich.

## **2.2 Gender composition**

As a rule, there is a widely shared consensus that unauthorized immigration is structured with respect to gender. However, there is hardly any sophisticated estimation or reliable information on the gender composition. It is only possible to introduce some data and information that may serve as indicator for a proper assessment of the gender composition. I first introduce available statistical indications and expert opinions or assessments on the gender composition and then give a critical introduction of the indicators used.

**Police Criminal Statistic:** The Police Criminal Statistic provides explicit indications on gender composition of irregular population in Germany (see table 12). According to the overall distribution the gender composition in "key 7250" (cover-term for offences against immigration law) is 70% men and 30% women (p. 85). According to the available figures, in 2006 out of 40 424 identified apprehensions because of irregular stay (key 7257) 27 303 were men and 13 121 were women. The relation thus is roughly two-third men and one-third-women.

**Table 12: Gender composition of suspects of the offence “irregular stay (key 7257)**

	Total of investigated suspects	Male	Female
2004	47,818	33,582	14,236
2005	41,109	28,047	13,062
2006	40,224	27,303	13,121

Source: PKS; key 7257

This ratio is not representative due to the gendered, unequal risk of detection in the interior: Women work more frequently in private households where the risk of detection is definitely lower compared to construction sites where men are more frequently employed.

Further information on the gender composition is provided in the PKS with the statistic on all foreign suspects with the residence status “illegal” regardless of the offence (see table 13). This statistic refers to persons and not to cases. As indicated, persons are registered only once in a year – at least by one and the same State Police. The data in table 13 partly overlap with the data in table 12.

**Table 13: Foreign suspect persons with residence status “illegal” (all offences)**

Year	Total	Male	Female
2000	124,262	95,964	28,298
2001	122,583	93,801	28,782
2002	112,573	85,433	27,140
2003	96,197	71,197	25,000
2004	81,040	57,421	23,619
2005	64,747	45,713	19,034
2006	64,605	44,870	19,735

Source: PKS - Table 61, ongoing volumes; BAMF 2008: 163

Also this broader information shows that the gender relation among irregular migrants apprehended by the police remained constantly about one to two for the period covered.

Information from welfare associations: Statistics provided by health care centres and NGOs active in the medical care do also provide some information on gender proportion. In Germany charity offers in some cities health care for irregular immigrants and also publishes data on the composition of clients (Cyrus 2004). This data could be checked with respect to the gender composition. For example, one advice centre of the Caritas in Bonn has about 68% female clients (Weber 2008). Another health care centre for persons without health insurance in Berlin informs that about 60% of the clients are female because of the special offers for pregnant women (Franz 2006: 182). This overall picture is confirmed by a study from Hamburg (Schmitt 2007). Due to special needs related to pregnancy and deliverance, the

dominance of women in advice centre registers is intelligible but by no means representative. Moreover, the gender composition depends on the focus of the respective centre.

Most observers assume that the majority of irregular immigrants are men. Cyrus (2004, 2006) guessed that the share of male at irregular immigration in Germany accounts for two thirds (c.f. Cyrus 2004, Schönwälder et al. 2004) while some feminist scholars (Lutz 2007, Rerrich 2006) point to a feminization of (irregular) immigration and assume that the volume of irregular migrant women is underestimated. The leading scholar, Helma Lutz, summarizes after a review of the available quantitative data: “Despite a lack of statistical evidence and severe statistical discrepancies, there is a broad consensus concerning the trend towards increased employment in this area (domestic work in private households, N.C.). Moreover, it is a sector in which the employees are increasingly from a migrant background” (Lutz 2008: 45).

There is at least a consensus that the gendered structure of irregular immigration is linked to gender-segmented labour markets (see 3.2) and that the risk of detection is unevenly distributed among the genders.

### **2.3 Age composition**

Information on age composition of unauthorized immigrants is even more difficult to obtain. For this dimension, the literature use to refer to a statement by Cyrus (2004) saying that as a general rule, it is estimated that the focus is on middle-aged persons (20-40 years), with some indications of elder people as well as younger persons and children.

However, this statement is again rather a rough consideration taking into account information from qualitative fieldwork and literature review but not substantiated neither in quantitative nor in qualitative terms. There is only some anecdotal evidence that some immigrant families bring in their elderly family members unauthorized when strict immigration law does not allow official immigration.

Police Criminal Statistic: A closer examination of the PKS for this report shows that there is some information on the age structure of “suspects without a legal status” (7257) available. The information for the year 2005 and 2006 is provided in table 14.

**Table 14: Age structure of suspects of irregular stay (7257) according to PKS**

Age	Male	Female	Male	Female
Children below 14	80	82	81	75
Youth 14-18	1,172	576	1,321	564
Young adults 18-21	2,101	1,113	2,301	1,176
Adults 21-25	3,927	1,894	4,201	2,020
25-30	5,607	2,365	5,956	2,379
30-40	8,275	3,230	8,347	3,305
40-50	4,039	1,809	4,038	1,839
50-60	1,496	1,222	1,284	957
60 and older	604	830	518	747
<b>Total</b>	<b>27,303</b>	<b>13,121</b>	<b>28,047</b>	<b>13,062</b>

Source: PKS Table 20 (page 20 of 25), BKA (Bundeskriminalamt) 2007

The PKS data indicates that most apprehended irregular immigrants are between 18 and 50 years old. There are also few irregular immigrants younger than 18 or older than 50 years, but the majority of irregular immigrants is in adult age. About 75% of men and about 68% of women were in the age group 18 – 40.

Information from welfare associations: The already mentioned client registers of advice centres supports the impression that the focus is on persons aged 20-40 (Franz 2006, Weber 2008). With respect to children, there is considerable concern about the education of children of parents without a legal status. The debate in Germany indicates that some schools do accept such children without informing authorities. There are some estimates presented for some cities, but they are not substantiated. For example, according to press coverage some teachers estimate that in Hamburg (with 1.75 million inhabitants and estimated 30,000 irregular immigrants) several hundred children of parents without legal stay shall attend schools (Hamburger Abendblatt, 29.09.2006). Also the indication of birth is an indicator for the presence of children (see chapter 3.1). Anyhow, this debate indicates that the number of under-aged immigrants without a legal stay is not negligible but there are no figures available.

## 2.4 Nationality composition

As a rule, in the German debate a rough categorization is used that group irregular immigrants with respect to the region of origin and the relation of Germany to the country. In the debate, reference is frequently made to a proposal presented by Cyrus (2004) that does not indicate individual nationalities but rather clusters the countries of origin with respect to the legal framework for entry and stay and the existing link between country of origin and receiving country.

Sinn et al (2006: 35) summarise: Combining the data contained in the Police Crime Statistics (concerning the residence status of non-German illegally resident suspects) and in available qualitative-empirical studies, Cyrus (2004: 19-23) has drawn the following conclusions about the origin of unauthorized migrants. The quantitatively largest group is formed by migrant workers from Central and Eastern Europe who have entered the country without visa requirements or with the help of fraudulently obtained visa. Prior to May 1, 2004, this group included for example Polish, Czech and Lithuanian national. Meanwhile, the EU enlargement in 2004 (EU 25) and 2007 (EU 27) has – at least partly - changed the legal regulations for nationals from these countries of origin. Since then, nationals of these countries do no longer require a residence title, but they continue to require a work permit, pursuant to interim regulations on freedom of movement or workers. A second category is formed by nationals of countries with visa requirements that have a history of migration flows to the Federal Republic of Germany or the former German Democratic Republic (e.g. Turkey, the former Yugoslavia, the Russian Federation, Ukraine and Vietnam). Within this category, migrants join families that already live in Germany or join ethnic groups that can function as contact points for migrants. A third group of irregular migrants is formed by nationals of distant countries with visa requirements that are marked by a lack of political and/or economic security. For example, this group comprises Chinese, Iraqi, Afghan and Indian nationals, but also migrants from Africa and Latin America. Some of these migrants submit an asylum petition after entering the country illegally. Lederer (2004: 175) has pointed out that a significant correlation exists between asylum seekers' main countries of origin and the nationality of migrants who are most frequently apprehended while attempting to cross national borders illegally (Bundesministerium des Innern 2004: 38). However, certain groups of migrants, such as people from Latin America, hardly play a role in asylum procedure; instead, most of them choose to directly enter into illegality (cf. Gómez Schlaikier 2005). In Germany in 2004, a total of 141 initial asylum petitions were submitted from people from the Americas. These indications show that a correlation between asylum applications and irregular immigration exists for some nationalities but that it cannot be generalised (BAMF (Bundesamt für Migration und Flüchtlinge) 2005: 35).

With the EU accession of now twelve new member states – among them the important sending countries of irregular immigrants Poland (until April 2005) and Romania (until December 2006) – the citizens of the new EU countries in legal terms are no longer irregular immigrants but maybe undeclared workers. However, Romanian citizens are still a significant group in the statistics on irregular entries (see chapter 3).

The PKS includes among the suspects without German nationality a category of persons suspected of irregular stay (unerlaubter Aufenthalt). This figure refers to the violation of the immigration law (§ 95 Abs. 1, No. 1, 2 and Abs. 2 No. 1b residence act) and includes also accomplice (with German citizenship). This statistic accounts on the national composition of persons suspected of irregular stay. In spite of the inclusion of regular residents (accomplices) in this category it may serve as an indicator for nationalities involved in irregular stays because irregular and regular residents in this category are often from the same nationality. Table 15 shows the information.



**Table 15: Nationality of suspects of irregular stay (including accomplice) according to PKS in 2005 and 2006**

Nationality / Year	2005	2006
Turkey	4,982	4,771
Romania	4,360	4,666
Bulgaria	2,732	2,731
Serbia and Montenegro	2,718	2,136
Russia	2,215	2,023
Ukraine	2,197	1,690
China	1,597	1,483
Vietnam	1,481	1,450
Iraq	719	959
India	958	941
Non-German suspects total	39,972	39,287
Total of suspects	41,109	40,424

Source: BAMF 2007: 146

In 2006 altogether 40,424 suspects were accounted, of those 39,287 foreign nationals. Of those, 32,520 did not possess a legal residence status (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 164). It remains unclear, if and which kind of residence title the 6,767 persons possessed that makes the difference.

The data indicates that Turkish nationals are the most important group among the population without residence status in quantitative terms, although it has to be noted that they are a very small group in comparison to the large legal Turkish origin minority (see chapter 1). However, in qualitative studies they are hardly mentioned (with the exception of Alscher et al. 2000). Cyrus suspected that the share of irregular immigrants from Turkey is higher than assumed in public opinion. He argues that communities of immigrants from Turkey in Germany are highly organised and offer manifold niches for economic and social opportunities to make living which are widely concealed from public attention. Within the communities irregular immigration is a delicate issue. Few local studies exist on immigrant communities, but they do not provide estimates on the volume of irregular immigrants.

Another statistic that covers nationality and may be cautiously interpreted with respect to irregular immigration are the asylum application data (assuming that asylum seekers mainly enter a country unauthorized and that there is a relation – as stated by Lederer (2004) and confirmed by (BAMF (Bundesamt für Migration und Flüchtlinge) 2005: 16-19) – between legal and irregular population). The information on asylum procedures is presented in the section on status related flows. However, as already mentioned, the asylum statistics account only for those nationalities for which asylum application is relevant. EU citizens are not included (with very rare exemptions) (see chapter 3).

Welfare associations: Some advice centres that counsel irregular immigrants provide statistical data including information on the nationality or at least the regional origin of clients. These figures are far of being representative, because due to the organisation of the German welfare system, the charity associations have divided responsibility for special nationalities. Accordingly, the nationalities that visit the centres correspond with specialisation. For example the already mentioned advice centre (Weber 2008) have a dominance of irregular immigrants from Ecuador that can be explained with reference to network effects and does not necessarily indicate that Ecuadorians are the largest group in the city. One advice centre in Berlin (MMM) informs that clients came from all over the world: 14% from South- and Middle Americas; 15% from Russia; 32% from South- and East Europe; 21% from Africa, 14% from Asia and 4% from other countries (Franz 2006: 183). A medical care centre in Hamburg had 71% clients from South and Middle Americas; 6% from Turkey and Near East; 6% East Europe; 10% Africa; 1% Western Europe and 1% Asia and Australia, and 5% without information (Schmitt 2007: A-5).

Due to special network effects and special orientation it is impossible to conclude from the national composition of the clients of charity to general statements on the national composition of the total stock of irregular immigrants in Germany. The information shows at least that immigrants without health insurance are present in several cities and that they come from all over the world, and a considerable share from third-countries. It is however difficult to qualify the exact residence status because the client group may involve also tourists, visitors or students.

### **Estimates for specific nationality groups**

Some few studies on national immigrant groups include estimates on the dimension of irregular immigration. For example, Cyrus assumed for Berlin that the number of irregular immigrants from Poland before the 2004 EU accession was equivalent to the number of officially registered Polish immigrants (Cyrus 2007). Accordingly, the number of irregular Polish immigrants would have been about 38,000 persons at the eve of Poland's EU accession. This statement was based on the consideration of available statistical data like figures on border crossings, apprehensions of irregular Polish migrants and took into account the everyday observation of a widespread presence of Polish irregular migrants in Berlin. This figure referred to irregular migration in a wider sense and included not only Polish permanent residents without a legal status but also migrant workers that commute between Poland and Berlin and may even perform only for few hours an undeclared job. Accordingly, this figure was not related to the stock in Berlin but to the pool of irregular migrants living in Berlin or Poland. This figure was created on the basis of assumptions that Polish migrants are the most important group of irregular immigrants due to the fact that Berlin is only 80 km away from the border and expert opinion confirmed that Polish immigrants are the most important group among the estimated 100,000 irregular immigrants in Berlin (Cyrus 2007).

With respect to third-country nationals, only few studies cover particular nationalities. One example is a study that covers irregular immigration from Cameroon (Fleischer 2007). The study states - with reference to a study on sub-Saharan African immigrants in Frankfurt/Main

(Lentz 2002) – that the number of irregular sub-Saharan African immigrants in Germany exceeds the figure of legally registered by 50 % may serve as an indicator for nationalities involved in irregular stays. According to this rule of thumb about 20,000 irregular immigrants from Cameroon live in Germany (Fleischer 2007: 6). However, the control of the reference study delivered by Lentz revealed a more cautious and sophisticated picture. Lentz narrowed the 50 %-plus rule in several respects: She argued that it probably may apply for most sub-Saharan African nationalities in Frankfurt (but not for all). The 50%-plus-rule is also obviously limited to the city of Frankfurt which is described as a global site with particular attractive conditions for African immigrants including the opportunities to take up university studies. Finally, she counts to the African immigrants that live in Frankfurt without official registration not only irregular immigrants but also tourists, visitors and persons which are registered somewhere else in Germany (or Hessen) but prefer to stay in Frankfurt without the knowledge of responsible authorities. Accordingly, the 50%-plus-rule can neither be generalized for Germany nor taken as statement on irregular population. The case shows that the estimation of irregular immigrants from Cameroon by Fleischer is too high because tourists are included and double counting of immigrants who are more mobile takes place.

The work by (Alt 2005) confirms and shows that with respect to irregular immigration the situation in Germany cities differs considerably. Factors like geographical location, historical links, socio-economic structures and the housing situation shape the opportunities for irregular immigration projects and influence the composition of the population without a legal status. Thus, local studies and also studies on a nationality with a local focus cannot be generalized.

## **2.5 Subgroups relating to economic sectors**

Undeclared employment of irregular migrants is a sensitive issue in public debate. Although undeclared employment of irregular immigrants receives a high level of attention – for example in the debate on the care of elderly people or the competition for jobs in construction – the insights in undeclared employment of irregular immigrants remain poor (Cyrus 2006). There is neither reliable data nor any reliable assessment of the share of irregular immigrants in specific sectors. One reason is that informal and unregulated employment is not much investigated. The special role and situation of irregular immigrants is mainly addressed in qualitative studies. Also economic and sociological studies on shadow economy neglect the contribution or situation of irregular immigrants (Eurobarometer 2007) or mention it – if at all - only as a side phenomenon. Only few papers present quantitative estimates of the involvement of foreign nationals in shadow economy. These estimates base mainly on a consideration of econometric studies, surveys, information from labour inspection or from qualitative field-studies.

Academic assessments: In the German debate, mainly two research groups assess the volume of shadow economy (BRH (Bundesrechnungshof) 2008: 27). According to a survey study by the Rockwool foundation, undeclared employment in Germany reduced from 4.1% GDP (gross domestic product) in 2001 to 3.1% in 2004. The total amount was 70 billion € in 2004 (Feld & Larsen 2005). Another estimate is provided by a research group from “Institut für

angewandte Wirtschaftsforschung” (IAW), Tübingen. This research group assessed the size of the shadow economy every year since the 1990s. For 2004, they estimated 356 billion € which did not change much in the following years. The share of undeclared employment in the shadow economy is estimated with 40%, leading to 142 billion € in 2004 – a much higher value than calculated by Rockwool foundation. The Federal Ministry of Finances argues that the survey data from Rockwool foundation provides a minimum level while the data from IAW research group rather a maximum level (BRH 2008: 27). The figures do not distinguish nationalities. Accordingly, there is no estimate about the share or volume of foreign nationals or irregular immigrants (Feld & Larsen 2005).

However, the IAW research group provides some additional information about the share of foreign nationals. Referring to surveys (Enste & Schneider 2006) state that the main areas for undeclared employment are construction and craft business (38%), the remaining craft business (17%), the service sector including hotel- and catering (17%) and the services for private households (15%). With respect to the share of immigrants, Enste and Schneider state with reference to econometric studies and some other methods that 10% of undeclared workers are foreign nationals. The authors explained that the undeclared employment of foreign nationals rose – in full-time job equivalences - from 878,000 jobs in 1995 to 1,002 million full-time jobs in 2005 (Enste & Schneider 2006: 46). If irregular immigrants are on average working less than full-time, the number of persons involved in irregular labour migration would be even higher. However, the foundation for this estimation remains unclear. It remains furthermore unclear whether this includes also legally residing or only migrant workers without residence status (see also the critical consideration of this approach in the CLANDESTINO Report Austria).

Data from labour enforcement: According to the BAMF, labour inspection data cannot be used as indicators “for an assessment of the dimension of unauthorized immigration in Germany” (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 24). Indeed, labour inspection data have some problematic features: They measure a *workflow* (*cases*) over the period of a year. Therefore, they are not ideal for estimating a *stock* of migrant workers: Migrants are mobile and may not stay during the full year. Persons may be caught more than once during a year. The rate of multiple counting is unknown, and it is also not known whether it differs between own nationals, regular foreign residents and irregular migrants. Data on finalised cases may be derived from inspections in earlier years. In addition, labour inspection data as all control authority data are influenced by targeting practices: In general, private households are not covered, and branches which are expected to employ many irregular workers are targeted more intensively than low risk branches. Intensity and strategies change over time. More subtle form of undeclared employment are not covered, for example when a worker from eastern Europe possess a work permit but is conducting more qualified jobs (for example repairing of machines) than the work permit allows (Hess 2003: 21).

However, a study group from the Hamburg Institute of International Economics argues that labour inspection data may be used to get an approximate idea of the size of irregular residence and work, as more adequate data are lacking and are hard to produce. In the course of an ongoing study about irregular migration in the city of Hamburg, an adjusted multiplier approach is developed (Vogel & Aßner, 2009 forthcoming). It aims at making a progress by

clearly indicating assumptions and limitations. A preliminary version of this approach is presented here.<sup>7</sup>

The general idea developed by Vogel & Aßner is the following: Labour inspections check workplaces in search of undeclared employment. In the course of their activities, they inspect the papers of regular residents ( $N_s$ ) and workers without work authorisation ( $W_s$ ) and the persons without residence authorisation ( $R_s$ ) so that total inspections  $I_s$  can be written as

$$I_s = N_s + W_s + R_s$$

The total labour force in Germany also consists of regular residents  $N_t$  and persons without work authorisation ( $W_t$ ) and persons without residence authorisation  $R_t$  so that the total labour force can be written as

$$L_t = N_t + W_t + R_t$$

With regard to targeting practices, Vogel & Aßner see clear indications that labour inspectors seek to control branches and companies where they see a likelihood of finding irregular work in general and also irregular migrant work in particular (Cyrus 2002). Therefore, they assume that the ratio of irregular migrant workers found in labour inspections is lower than the ratio in the labour force.

$$W_t / (N_t) < W_s / (N_s)$$

By multiplying with  $N_t$ , they get the formula for the calculation of the maximum number of migrant workers without work permit, or without residence permits respectively.

$$W_t < W_s / N_s * N_t$$

and

$$R_t < R_s / N_s * N_t$$

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<sup>7</sup> The application to the national level was worked out in collaboration with Dita Vogel and improved after receiving detailed comments by Michael Jandl.

They insert then values available from a recent study delivered by the Federal Accounting Office (see table 16) in order to make the calculation:

- The number of persons without work permit  $W_s$  is approximated with the number of offences for lacking work permit.<sup>8</sup>
- The number of persons with a regular residence in labour inspection data  $N_s$  is calculated as total inspections  $I_s$  minus  $W_s$  minus  $R_s$ .
- The relevant labour force at risk of being inspected by labour inspections is approximated with a demographic calculation: total registered population in the age of 15 to 65 minus employees in public service minus employees in private households and employees of extraterritorial organisations.<sup>9</sup> Vogel & Aßner assume that older and younger persons hardly work irregular, that labour inspections do not inspect public service, private households and extraterritorial organisations, and that regular workers in these branches do not work irregularly or only in private households.

Vogel & Aßner assume that there are virtually no irregular migrant workers in public service, while undeclared employment in private companies is considerable so that this calculation only refers to the private sector. According to the calculations, there are no more than about 300,000 persons without residence status working in private companies in 2006, while there may be as much as 1.3 million working without work permit (see table 16).

The most remarkable aspect of this calculation is the relatively low percentage and number of irregular residents in the calculation. Taking only the cases of missing residence status and missing work permit, irregular residence makes up less than 20 percent of the total of irregular work of foreign nationals. Employment without required work permit is much more important. This employment may be performed by tourists, EU citizens from new member states, asylum seekers, tolerated persons and other groups that are regularly in the country without being allowed to work. The total number of irregular residents working in private companies is also relatively low compared to the estimates of the total irregular population of about 1 million, as it implies that at least 700,000 persons would be working in private households or live in the country without employment.

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<sup>8</sup> Of course, it is problematic to approximate the persons with case data due to the possibility of multiple inspections of the same persons. However, labour inspections cover only a small amount of companies every year, and although there are certainly persons that are caught more than once, this is relatively unlikely. In addition, data for shorter reporting periods with a smaller likelihood that the same person is inspected more than once do not indicate a high relevance. According to representative of FKS, the labour inspection in Berlin detected in one month (i.e. October 2005) only 11 migrant workers without a legal residence status out of 1,328 controlled workers. Among the 11 irregular migrant workers were also EU citizens (Basner 2005). Inspection and case data do not fully overlap in time. With respect to the difference between initiation and finalisation, we assume that the cases that are taken over from prior years do not differ substantially from the cases handed over to the next year.

<sup>9</sup> The labour force was also discussed as approximation. In its wide ILO definition, it is slightly lower (43 million) so that the higher value was chosen for the calculation.

**Table 16: Estimate of the irregular migrant workers in the private sector**

Category / Year	2006
I: Total Inspected persons $I_s$	423,175
II: Cases involving irregular residence $R_s$	2,547
III: Cases involving lack of required work permit $W_s$	10,534
IV: Inspected persons with regular residence $N_s = I_s - W_s - R_s$	410,094
V: Irregular resident worker multiplier ( $R_s / (N_s)$ )	0.0062
VI: Foreign worker without work permit multiplier ( $W_s / (N_s)$ )	0.0257
VII: Regular population at risk of being controlled $N_t$	48,979,200
VIII: Maximum number of persons without any residence status working in private companies ( $V * VII$ )	304,199
IX: Maximum number of persons without the required work permit working in companies incl. EU ( $VI * VII$ )	1,258,119
X: Percentage unauthorized residence/ total unauthorized residence and work ( $VIII / (VIII + IX)$ )	19 %
<p>Table notes and sources:</p> <p>I: Self-initiated inspection of persons (BRH 2008:29)</p> <p>II: Cases relating to §92 (1) Foreigners law (old) and to §95 (1) Residence Law (new) concerning residents without the required residence title, without the required documents and deportable foreign nationals (BRH 2008: Annex 6)</p> <p>III: Cases relating to work without the required work permit according to Social Law (SGB3 404 (2) nr. 4) (BRH 2008: Annex 6)</p> <p>VII: Statistisches Bundesamt, <a href="http://www.destatis.de">www.destatis.de</a>; Population in the age groups 15 to 65 (about 55 million), minus employees in public service (5.5 million) minus employees in private households and extraterritorial organisations (less than 60 000)</p>	

Source: Own compilation, on basis of BRH 2008

However, Vogel & Aßner underline that the total number of persons in undeclared employment is substantially higher because the persons working in private households are not estimated. But numbers of persons working in private companies may also be substantially lower as this is only maximum estimate and no minimum estimate was provided. Vogel & Aßner underline furthermore that they are aware that some of these assumptions may be challenged by more information and data, but they would regard the emergence of more precise data as a welcome effect of these very rough preliminary calculations presented here. More exact calculations would be possible if large and extended inspections on specific days (Schwerpunktprüfungen) could be analysed in more detail, but data were not publicly available.

## **Sectors concerned**

The BAMF points – with reference to information from labour inspection - to “branches of the economy that have been enumerated in the reports by the federal government on the impacts of the “Law on the Combat of Illegal Employment”. In these reports it is stated that almost all branches of economy are affected by unauthorized employment of foreigners (Bundesregierung 2000: 44, Bundesregierung 2005: 40, Schönwälder et al 2004: 47). In Germany, some sectors are mentioned to be affected by undeclared employment of migrant workers. The BAMF summarizes: “There is a very wide range of labour market options that have been identified. Thus, illegally resident migrants are, among others, working as assistant foremen, demolition workers, site foremen and bricklayers in the construction business, in landscaping and as gardeners, in window cleaning and cleaning of buildings, in the field of domestic services, car repair, agriculture, restaurants and catering, sales assistants, newsagents and in prostitution (Alt 1999: 139; 2003: 118-134). In addition, there are opportunities to earn money as self-employed entrepreneurs, for example as commercial housing agency or labour recruitment office, in purchase and sales of second-hand goods, trade in bulky refuse, as hawkers or musicians“ (BAMF (Bundesamt für Migration und Flüchtlinge) 2005: 69).

Although there is very few statistical data available, the following sectoral focal points of undeclared employment of foreigners are frequently mentioned: construction business and associated businesses, hotels and restaurants, cleaning of industrial facilities and buildings, agriculture and forestry, food, beverage and tobacco industry, transportation of persons and goods, metal processing industries and businesses in the entertainment sector (bars, nightclubs, amusement arcades). Also in private households and on private building sites, it is considered particularly likely that undeclared employment takes place. In addition, undeclared employment of foreign labour seems to be common practice in small and medium-sized companies rather than in large companies and it is more concentrated in urban rather than in rural areas (BAMF (Bundesamt für Migration und Flüchtlinge) 2005: 69). According to this observations, some sectors are rather dominated by women (i.e. household work) and others by men (i.e. construction) while in some sectors the gender composition is rather mixed. Information from advice centres support this assumption. However, there is no reliable information available.

## **Estimates for specific sectors**

Estimates for specific sectors are mainly introduced by vested interests and they are accordingly shaped by political purposes. Among the aforementioned sectors, only few sectors were subject to an individual consideration.

### **Agriculture**

An examination on the system of seasonal employment of migrant workers by Dietz (2004) indicated that undeclared and semi-compliant employment takes place in a significant amount. She pointed to findings from control activities of seasonal workers conducted by the labour inspection of North Rhine-Westphalia. The labour inspection had declared that 40 % of



controlled farms gave reasons for the suspicion of unauthorized employment. In 30 % of these cases the inspectors apprehended migrant workers without the required work permits (Dietz 2004). However, the phrase “share of farms that gave reasons for suspicion” does not allow any conclusion concerning the number of irregular migrant workers. But the responsible trade union - IG BAU – declared with reference to this data from labour inspection that the number of irregular employed migrant workers equals the number of officially employed migrant workers (IG BAU (Industriegewerkschaft Bauen-Agrar-Umwelt) 2001: 32). This would mean that about 300,000 migrant workers are undeclared employed.

Also a qualitative interview study on the situation of undeclared employed Polish seasonal worker in German agriculture supports that this sector is affected by undeclared employment (Streiffeler & Piszczek 2007: 4). The qualitative study relies on interviews conducted in Poland with 64 Polish migrant workers that have at least once performed undeclared employment in agriculture in Germany in the last three years. It turned out that workers used to have worked between one to ten seasons. The interviewed workers said that they normally do not know if and how many of the co-workers are employed undeclared because workers do not speak about this topic. However, some workers said that apart from them more workers were employed undeclared (Streiffeler & Piszczek 2007: 4). The result of the interview study indicates at least that the phenomenon of undeclared employment is not negligible. However, it remains unclear how authors derive to the guess that the number of unauthorized Polish migrant workers equates the number of legally employed migrant workers. There is no reference or clarification provided for this statement and it seems that the above introduced opinion of the trade union is reproduced.

A more systematic methodological approach for the assessment of the share of informal work in German agriculture was provided by the agricultural scientist Sebastian Hess (Hess 2006). In a first step, he calculated the total demand of agriculture and gardening for working hours of seasonal workers. For that purpose he sampled the 126 most labour intensive agricultural special branches (Einzelkulturen). In a second step, Hess investigated on the basis of data of floorspace and yields for these 126 special cultures the estimated volume of working hours. He assumed an average working time of 50 hours per week and person; and average contract duration of 10 weeks. On the basis of this assumption, Hess examined the estimated figure of necessary and employed seasonal workers and compared it with the figure of officially placed seasonal workers. As a result, the discrepancy was in 1994 about 150,000 and in 2001 still 60,000 full time jobs for seasonal workers. Thus, Hess assumed that in 2001 an equivalent of 60,000 jobs was performed undeclared in German agriculture, mainly by migrant workers from Poland. Hess stated that the undeclared employment thus had reduced in the period (Becker 2005: 84f). This calculation indicates that the opening of legal job opportunities had significantly changed the ratio of undeclared to regular employment. Even if the reliability cannot be assessed with respect to the absolute figures - because the assumptions are rather decided and not empirically derived - it is an interesting approach: even if this method alone cannot produce a reliable figure of the absolute amount of undeclared employment it can at least show trends provided that the method is applied consistently.

## **Construction sector**

There are no reliable data available but only several statements from employers associations and trade union. For example a representative of a Berlin-Brandenburg employers' association stated in 2004 with reference to an econometric study presented by (Schneider 2002) that undeclared employment has a share of 30% in construction services in Berlin and Brandenburg (Wenkel 2004: 57). In a later statement the share of unauthorized employment was addressed with reference to subsequent studies by Schneider even with 50% (Fachgemeinschaft Bau 2008). In this case, the organisation referred to less reliable studies provided by Schneider (2002).

Also the German construction trade union (IG BAU) continuously use to present high estimates of the number of undeclared employed construction workers in general and foreign migrant workers in particular without reference to the year or period. For example, an article in the trade unions' member journal "Grundstein" (6/2000) informed that in Germany in addition to 900,000 officially registered resident construction workers some 300,000 foreign migrant workers are employed undeclared: "Of those about 150,000 are from Eastern Europe, mainly from Poland; 75,000 from Portugal and respectively 25,000 from former Yugoslavia or Turkey (IG BAU (Industriegewerkschaft Bauen-Agrar-Umwelt) 2000: 13). The method how the trade union derived these figures remain unclear. As a matter of fact, IG BAU implicitly suggest that undeclared employment is mainly a problem of foreign migrant workers, but there is no qualified special statement on third-country nationals without required residence permit made. There is no evidence or transparent calculation that would support the suggestion that undeclared employment is linked with irregular migration.

The vested interest groups in the construction sector understand by unauthorized employment any violation of standards for working conditions and pay. Accordingly, the category of unauthorized employment includes also resident native and foreign workers as well as officially registered foreign migrant workers that possess a work and residence permits when they are not employed in compliance with regulations. Taking into account the already mentioned findings from (BRH (Bundesrechnungshof) 2008) and (Basner 2005) it is rather probable that vested interest groups overestimate the contribution of irregular third-country migrants in undeclared and sub-standard employment. The main problems are patterns of semi-compliance or substandard employment of resident population behind legal facades.

An interesting approach to calculate the share of informal employment in the construction section provided a study published in 2000 (Bosch et al 2000). The authors considered the relationship between the employment of resident and migrant workers. For the German construction sector they observe that until 1994 the employment of resident and foreign migrant workers both increased, i.e. they observed a complementary trend. However, since 1995 the relationship turned to a competitive one when employment of migrant workers still increased and that of resident workers decreased. The authors underline that this trend to a more competitive relation and the replacement of resident workers by migrant workers had regionally diverse levels. In particular Berlin was affected. Here, the volume of construction services increased from 1992 to 1995 with about 40% but the number of employed resident construction workers remained stable. For Berlin in 1998, the authors observed that the volume of services realized in the Berlin construction market had an equivalent of 88,000 full-

time jobs. But only 28,000 construction workers from enterprises in Berlin were employed. The authors concluded that the rest of 60,000 workers employed in Berlin in 1998 came either from other German federal states, were officially registered posted foreign workers, irregular migrant workers from abroad or resident “moonlighters” (Bosch et al 2000: 675f). The applied sector specific discrepancy approach with its examination of additional workforce offers an approach to deliver a more substantiated estimate on the maximum level of informal employment. But it cannot provide further insights because the composition of the additional workers remains unknown. In order to get information on the composition of the workforce in a particular sector Vogel made the proposal that labour inspection should conduct for particular selected sectors and for a particular (short) time work site controls on the basis of controlled random selection. Provided that controls would cover sites that were carefully selected with a consideration of representativeness of particular characteristics this approach could deliver insights in the status composition of workforce (Vogel 1999). Thus, the combination of the discrepancy method for the calculation of the overall volume of additional workers with a representative controls for the calculation of the share of status categories could offer a way to get a more founded estimate of the share of irregular employment in selected sectors.

### **Household sector**

According to all available sources private households provide an important market for the services of irregular migrants (Lutz 2007, Lutz 2008, Rerrich 2006). However there is no clear quantitative assessment of the share and volume of irregular migrant workers. A frequently quoted study analysed the data from the 2000 socioeconomic panel and found that about 2,9 million private households use to employ a domestic helper on a continuous basis and additional 1.1 million households occasionally (Schupp 2002).. While 4 million households employ – mainly on a part-time basis - domestic helpers more or less continuously, on the other side only about 40,000 persons were officially registered to perform a job as domestic helper liable to social security. Schupp underlined the high level of undeclared employment in this sector but also assumed that resident population is involved.

The German Trade Union Confederation (DGB) stated – with reference to a legal reform in 2004 – that undeclared employment in households is rather tolerated by the legislator (DGB (Deutscher Gewerkschaftsbund) 2005). Indeed, several information sources agree that the number of irregular migrants employed as household workers is not negligible. Authors like Maria Rerrich (2006) or Helma Lutz (2007) underline that private households provide the most important labour market for irregular migrant women. However, due to the complex composition of the workforce, including resident women and foreign women with a legal residence status employed in this sector the share of irregular immigrants is impossible to assess. It remains unclear how many and which type of workers are involved in order to perform the jobs. The informal household work is performed not only by foreign migrant workers without a legal status but also by native and resident foreign workers. Since the information about the composition of the workforce is not available, there is no clear estimate about the volume of irregular migrant workers undeclared employed in the household sector.

## Care work

With respect to statistical information the situation is a little bit clearer in the case of the informal labour market for care givers. The health care for elderly people received considerable attention in the last years. Recent newspaper coverage stated in 2007 that at least 100,000 health workers from Eastern Europe are undeclared employed as care givers for elderly persons (Die Zeit, 48 from 22.11.2007). Two years before, a public health researcher had stated that the scope of irregular employment in the domestic care is unknown and stated – without a further source – that figures vary according to the interest of the providers between 50,000 and 70,000 workers who should mainly come from Eastern European countries (Kondratowitz 2005: 420). But in this area, there is some statistical information that may provide a maximum level for these employment patterns. According to the Federal Statistical Office, in December 2005 about 2.13 million persons were dependent on care services. About one third lives in care shelters, and two thirds, about 1.45 million people in need of care are looked after at home. About 10% of the people still at home are classified by the care institutions in category III (i.e. in need of 24-hours care) (Dollinger 2008: 2). According to this calculation, the maximum figure of households that could employ irregular migrant workers would be 145,000 *in this category III alone* – provided that all persons who are in need of care are also registered with the care insurance. According to this information, the estimate of more than 100,000 undeclared employed irregular workers suggests that most people of category III still living at home are cared by irregular migrant workers from Eastern Europe. However, this may imply a rough underestimation of the care work still provided by family members. The estimate of 100,000 would be justified if about two third of the respective households would rely on irregular immigrants. If every second household would be involved in irregular employment of care givers – a probably too high assessment - the figure for 2005 would be accordingly 70,000 jobs. If every third household would be employ irregular migrant workers the figure would be about 48,000 jobs. The mentioned press coverage indicates at least that the phenomenon is wide spread in the segment with need for full-day care (category III).

There is however no further estimation about the share of households that employ irregular immigrants as care givers. The information on work pattern shows that in most cases two care givers share one job. Accordingly, the person figure of irregular immigrants involved should be doubled in this sector – while the stock of irregular immigrants in this sector working to a given time is accordingly lower. Another point relevant for the CLANDESTINO context is the fact that most care workers are (in the meanwhile) probably citizens of new EU member states. In the narrow sense they are no longer irregular migrants. Moreover, in few years the transition arrangements will expire and the workers will have the chance to offer their care officially as service provider. It remains an open question if third country nationals will enter these markets when the demographic and economic situation in the Eastern European EU member states will change.

On the other hand, findings from empirical field research in Austria – a country with a similar need for care workers - show that irregular migrants do care work also in the other care levels (Jandl et al 2007). Accordingly, the calculation of irregular migrant workers in the care sector needs to be complemented with a consideration of the situation in other care levels. The

available information shows that the care for elderly people is an important labour market for irregular migrants in Germany.

### **Sex industry**

Sophisticated information is available for the area of prostitution. The European research project TAMPEP collects since 2000 information and data on work in the sex industry in order to improve health conditions and to prevent the spread of HIV. The information on Germany provided by TAMPEP relies on annual surveys among public health services and NGOs. The information relies mainly on the compilation and analysis of estimations and statements provided by experts working in this field. The approach and methodology is explained in one of the project reports published in 2002 (TAMPEP 2002: 139ff).

According to this report, for the year 2006 and 2007 sex-workers' organizations in Germany assessed that there are about 400,000 sex-workers—women, men, and transgender—working in Germany full or part-time in the period of one year. With respect to gender of the sex workers 93% are female, 4% male and 3% transgender. The biggest towns in Germany have approximately the following number of sex workers: Berlin (4,000), Bremen (1,500), Dortmund (2,000), Dresden (600), Düsseldorf (1,000), Frankfurt/Main (2,500), Hamburg (3,500), Hannover (2,300), Leipzig (250), Munich (3,000), Nuremberg (1,500), and Stuttgart (2,700).

Since 1999 the share of migrant sex-workers increased significantly and in 2005 about 60% of sex workers were migrants. This trend has been further reinforced by the enlargement of the EU. In 2006 for the first time more migrant than national sex-workers worked in all regions of the country. The difference in numbers is the greatest in the Northern region (34% Germans, 66% migrants), where a large prevalence of sex-workers are from Central and Eastern Europe“(TAMPEP 2007: 233). In the meanwhile, the majority of female sex-workers are migrants: about 60% of them, while among male sex workers 75% are migrants and about 85% among transgender sex workers are migrants.

The country report state that in Germany migrant workers provide with 60% to the sex industry. With respect to the regional origin the report says that 55% from CEE, 20% from Asia, 15% from Latin America, 10% from Africa. Altogether 38 nationalities are engaged in the sex industry (TAMPEP 2007: 6). The main countries of origin are Poland, Russia, Baltic countries, Thailand, Ukraine, Czech Republic, Bulgaria, Dominican Republic, Brazil and Ghana. The report notes for the last two year a noticeable increase in the number of migrant sex workers working in massage parlours, mainly Asian sex workers who offer sexual services in Thai massage parlours. There has also been an increase in African sex workers.

Another aspect relevant for the CLANDESTINO project is the information on the mobility of sex workers in Germany. Around 20% of German sex workers have already worked in another country. The main countries were Austria, Belgium, France, Greece, Italy, the Netherlands, Spain and Switzerland. And around 60% of migrant sex workers have already worked in another country and/or in their country of origin. The main ones were Austria,

Denmark, Estonia, France, Italy, Latvia, Lithuania, the Netherlands, Poland, Spain, South American countries, Sweden, Switzerland, Thailand, Turkey and the UK. Moreover, around 80 % of both German and migrant sex workers have already worked in another German town.

The three main reasons for mobility are: Firstly, undocumented migrant sex workers must constantly look for new environments to work because of police raids, bad working conditions or because they are forced to move by pimps or traffickers. Secondly, mobility is expected by clients who demand a constant re-introduction of new faces. For both German and migrant sex workers novelty brings better earning possibilities. This aspect is supported by information from different informal social networks within disparate (cultural) migrants' and sex workers' communities. And thirdly, factors specific to the sex industry may prompt mobility such as internal or personal conflicts, public events bringing higher demand, like business meetings, trips with clients, difficult or personal circumstances. There was a change in patterns of mobility due to the EU enlargement. As enlargement facilitates mobility within the European Union, and because of border proximity, there was an increase mainly of Polish women, working in Germany on a temporary basis, or for a limited period of weeks or months.

These findings shed some light on the high probability of double counting within one country and among European countries. It remains also unclear how many of the women are irregular migrants – since there is the widespread strategy that women marry in order to get a residence status. Also the share of women from European member states is not known but probably high. Finally, there is no safe base data on the scope of sex workers.

Accordingly, the 60% share of migrant sex workers at the estimated 400,000 sex workers would result to a maximum of 240,000 foreign sex workers. Taking into account that the largest group of sex workers from Eastern Europe are no longer exposed to an unauthorized stay but only the remaining altogether 45% migrant share from Africa, Asia and Latin America and that among this group some legalize the stay by a marriage of convenience we may conclude that the figure of irregular migrants in the sex industry is at maximum 108,000 persons in Germany for the period of one year.

### **Hotel and Catering**

The hotel and catering is frequently mentioned as an area affected by unauthorized employment of foreign workers. For example, the FKS Cologne informed that focussed controls in hotels and catering revealed a share of undeclared employment of 25% (press release, July 2004). However, the definition of unauthorized employment covers all kinds of violations of a regulation. But apart from occasional press releases from FKS there is no systematic consideration of undeclared employment and the share of irregular migrant workers in the hotel and restaurant business available.

## **2.6 Former asylum seekers and refugee related groups**

Asylum seekers: There is no reliable information or statistics about the stock of former asylum seekers or refugee related groups in Germany. As a matter of fact, there is no estimation how many refugees or rejected asylum seekers are among irregular immigrants. As a main rule it may be said that this group had more relevance during the 1990s when high numbers of inflows of asylum seekers caused a back log of applications. With the successive deciding of asylum applications this category has probably lost relevance until the 2000s.

Unaccompanied minor refugees: There is no precise data available on the number of minor unaccompanied refugees. One NGO stated that the number is estimated with 5-10,000 children. The number of unknown cases is high because unaccompanied children and youth are not separately registered in statistics<sup>10</sup> The government of the Federal State Lower Saxony estimated that in 2004 between 6,000 and 10,000 unaccompanied minors lived in Germany.<sup>11</sup> However, according to recent official information 186 unattended minors were registered in 2006 as asylum seekers. This was a share of 2% of all asylum applicants younger than 18 years (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 102).

Traumatized refugees: According to information provided by the Hamburg Senate the refugee status is not registered in health statistics.<sup>12</sup> Therefore, no separate information on the amount of traumatized refugees is available.

## **2.7 Other groups raising specific concerns**

According to information from the responsible officer the BAMF considered secondary analysis of available statistics in order to generate estimates on irregular immigrants.<sup>13</sup> The main idea was that irregular may be included in some public statistics on incidents or areas like traffic accidents, worksite accidents and health care registrations. However, the consideration came to the conclusion that current statistical accounting does not allow a secondary analysis. Moreover, the special situation of irregular migrants that evade contact with officials would distort the data collection.

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<sup>10</sup> [http://www.heimatgarten.de/unbegleitete\\_minderjaehrige\\_fluechtlinge.html](http://www.heimatgarten.de/unbegleitete_minderjaehrige_fluechtlinge.html)

<sup>11</sup> <http://www.asyl.net/Magazin/Docs/2004/M-4/4863.pdf>

<sup>12</sup> [http://www2.katja-husen.de/uploads/18\\_1021\\_betreuung\\_fluechtlinge\\_i.pdf](http://www2.katja-husen.de/uploads/18_1021_betreuung_fluechtlinge_i.pdf)

<sup>13</sup> Personal communication with H. Lederer, 28.05.2008

### 3. Estimates, data and expert assessments on flows

According to public documents authorities estimate the total figure of border crossings across the German borders with about half a billion exits and entries annually (BMI (Bundesministerium des Innern) 2003: 28). German authorities publish statistics related to the activities of border enforcement, including the figures of apprehensions of unauthorized entries or exits. But public authorities do not assess the share of irregular entries nor give any estimate on unauthorized entries in absolute terms.

As a matter of fact, there is hardly any estimation on the total of irregular border flows in Germany. Researches, among Lederer, Alt and Vogel consider that information provided in statistical data of border enforcement (Federal Police), crime prevention (Federal Criminal Office, PKS) and immigration administration (Federal Office for Migration and Refugees) can be used in order to generate estimates on flow.

In the late 1990s Jörg Alt presented a speculation that for every irregular immigrant apprehended by border enforcement at least three to five other irregular immigrants manage to pass border controls undetected (Alt 1999: 48). He informed that some border enforcement officers he spoke with found this formula plausible. Taking into account that to that time the border enforcement counted more than 30,000 cases of apprehended irregular entries he concluded that about 100,000 irregular immigrants entered Germany annually. Apart from this attempt to assess the total of inflow and outflow of irregular immigration there is no other serious opinion about the total of irregular inflow and outflow.

Alt directed attention also to the annual outflow of irregular immigrants without presenting an estimate. According to findings from field research in Leipzig – and later Munich – a high share of irregular immigrants use to go back and forth in correspondence with demands of informal labour markets and family life. In particular informal migrant workers (tourist-workers) from CEE countries practise this pattern of mobility while immigrants from other continents – among refugees – are more sedentary.

The observation that irregular entries are generated by mobile migrant workers from CEE countries has an important implication: With the EU accession the citizens of the new EU-member states gained the freedom of movement. The decrease in the figure of irregular entries indicated in the following section can be explained with the changed legal framework. In particular the EU integration (resp. the introduction of visa free entrance) of countries that were important origin countries reduced the number of irregular immigrants because citizens are no longer subject to the immigration law but to the European mobility law. The following sections present the sources and information on demographic flows (3.1), border related flows (3.2) and status related flows (3.3). As a matter of fact, *inflow* means the inflow into an irregular stay (birth, entry without or loss of status) and *outflow* the leaving of an irregular stay (death, emigration, obtaining a lawful status).



### **3.1 Demographic flows (birth and death)**

There is hardly any systematic account on data concerning the demographic flow of population without residence status. As a rule, demographic flows occur as birth (technically inflow) and death (technically outflow).

#### **3.1.1 Demographic inflows**

Deliveries by women without a regular residence status are not separately registered. NGOs complain that registry offices in some federal states refuse to issue a birth certificate for children of mothers without a legal status even when the newly born child of a mother without residence permit is known to the authorities.<sup>14</sup> Moreover, irregular immigrants that managed to give birth without getting in contact with authorities do not ask for the issuing of a birth-certificate for children because they fear that the contact with public institutions will result in deportation. The public becomes aware of this special problem only occasionally, for example when media reported on a court hearing that examines the circumstances of the death of a new-born children that was abandoned by a mother without residence status (Generalstaatsanwaltschaft Berlin 2007).

Little information is available from welfare associations that provide medical aid for irregular immigrants. According to this information, the number of deliveries by women without residence status is considerable. According to qualitative research there is a relevant number of children of irregular immigrants in Germany. For example, (Anderson 2003) stated that some hundred children live in Munich. Also information from medical support centres in Hamburg (Schmitt 2007) indicate that there is some inflow by birth. But there is no reliable information. In Berlin, one special medical aid centre declared that in the seven years of existence (2001-2007) about 600 births of children without residence status were supported – in the year 2007 the figure was 142. However, the majority are parents/mothers from CEE accession states. The share of irregular immigrants in the narrow sense remains unclear (personal communication) (see also Cyrus 2004).

#### **3.1.2 Demographic outflows**

Also with demographic outflows, there is no central data concerning the death of irregular immigrants. But again some anecdotal evidences can be found. One report on “trafficking for labour and sexual exploitation (Cyrus 2006) described three cases of irregular immigrants who died while staying in Germany: A Romanian au-pair (year 2002), a Kazakh migrant worker (year 2002) and a Filipina household worker (year 1996). The Federal Government reported for 2007 the case of two irregular immigrants from Ethiopia who died during an attempt to enter Germany (Federal Government 2008). Moreover, some media coverage

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<sup>14</sup> See Anti-Diskriminierungsbüro Berlin: Press release from 22.06.2007, <http://www.adb-berlin.org/content/view/15/41/lang,de/>, visited 19.08.2008

indicates that irregular immigrants may become victims of crime or even murder. But there is no central register that informs about irregular immigrants that came to death as victim of murder.

More attention receives this issue from NGOs. An anti-racism advocacy group compiled newspaper reports about the “deadly consequences of the German refugee policy” and counted among other issues the death of immigrants at the border and in connection with a deportation (Antirassistische Initiative Berlin 2008). Based on this recherche the advocacy group states that not all cases of death come to their knowledge and that the result of the recherche should be considered as minimum estimates. Table 17 compiled the information from the yearly summaries.

**Table 17: NGO information on death at the borders**

Year	Death at the border	Death in connection with deportation*
2000	11	20
2001	12	6
2002	6	7
2003	6	7
2004	9	6
2005	3	4
2006	6	6
2007	2	2

Source: Own compilation, on basis of Antirassistische Initiative Berlin 2008  
 \* Includes persons who commit suicide when threatened by deportation and persons dying in the attempt to escape detention

The information seems to suggest that the number of persons who came to death when trying to enter irregular Germany decreased. But since this compilation rests on media coverage it may be also the case that this decrease mirrors a decreasing interest of media to report such cases. In order to get a more transparent picture it could be an approach to ask the embassies of important countries of origin of irregular migrants about their knowledge of citizens who are missed by their families or whose death is registered.

**3.2 Border related flows**

The data on border related flows is mainly provided by the Federal Police and also by the Federal Criminal Office. The detected cases of irregular entries are documented and published in the statistics of Federal Police, the annual Migration report and also in the Police Crime Statistic (PKS). In this Migration Report, the section on irregular migrants also provides information that is perceived as indicator for irregular immigration, for example the data on

asylum procedures, on the granting of a tolerated stay, or the figures of refusals, deportation and removals. This statistical data offers some information about the amount and composition (gender, age, nationality) of irregular immigrants identified as cases of irregular entry. However, this data informs only about the area of known cases (Hellfeld). The information on border related flows as it is documented in public statistics is not easily to use for a systematic assessment of irregular migration due to inconsistencies in the definition, the registration and the accounting of cases (see chapter 1).

The term irregular entry used for the purpose of this study is opaque and requires an explanation. First of all, authorities use the term unauthorized entry (unerlaubte Einreise, see BAMF 2007: 144; BKA 2007: 26) for the offence irregular entry. The unauthorized entry concerns a violation of § 95 section 1, no. 3 and section 2 no. 1a of the residence law. Accordingly, a person that enters the territory without authorization may face a prison sentence of up to one year. The entry is unauthorized when the person do not possess required documents (passports) or do not possess the required permission to enter (§ 95 section 1, no. 3). A person who enters the territory unauthorized although he or she was previously expelled, removed or deported may face a prison sentence of up to three years (§ 95 section 2 no. 1a).

According to BAMF, in the course of border controls “two patterns of unauthorized entrances are partly recorded: the entrance without documents and the entrance with fraudulent or falsified papers” (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 10). Accordingly, cases of irregular immigrants who try to enter Germany with forged or falsified documents are included in the figure of irregular entries. Moreover, also foreign nationals apprehended in the interior will be registered as irregular entry when control officers can ascertain the place and that date the unauthorized entry took place within the last six months (BKA (Bundeskriminalamt) 2007: 23).

There are two separate statistics on unauthorized entries available. One is provided by the Federal Police and the other by the Federal Criminal Office. The information from these two sources differs significantly. For example for the year 2006 the Federal Police accounts 17,992 cases of the offence unauthorized entry while the PKS provide for 2006 a figure of 26,679 persons suspect of the offence unauthorized entry. This difference has mainly three reasons: Firstly, the Federal Police accounts on apprehended *cases* while the PKS accounts on apprehended *persons* suspicious of the offence unauthorized entry (key 7251). Secondly, the statistical information from Federal Police includes only the cases handled by staff from Federal Police, while the PKS additionally include the apprehensions executed by State Police forces in the interior (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 15). Thirdly, if during an investigation because of human smuggling it turned out that more people were smuggled than initially assumed additional investigations against these persons will be started and also reported to the PKS (but not to the Federal police statistics) (see chapter 1). Accordingly, the PKS shows a higher number of unauthorized entries then the Federal Police statistic. This means that – in addition to the different accounting of incoming and outgoing statistics - there are considerable inconsistencies and overlapping counting of these statistics and they cannot simply be added: “A direct comparison is not possible” (BAMF 2007: 142).

### **3.2.1 Border related inflows**

The category border related inflows includes the statistics on apprehensions at the borders and some additional indicators like amount of smuggling cases or the use of forged or falsified documents.

#### **3.2.1.1 Total of apprehensions at the borders documented by Federal Police**

Persons that were apprehended by the Federal Police – and in the border area also by other authorities like customs and then handed over to the Federal Police which is in charge of border control - when trying to enter irregular are registered in the statistics on unauthorized border crossings provided by the Federal police. The following table 18 informs about the amount and trend of cases of apprehension on the borders by Federal police. As a matter of fact, the table informs on the cases of apprehensions, not the persons apprehended. The data includes apprehensions on the land- and sea-borders, on airports and also in the interior (railway). As a matter of fact, in case of unauthorized entry with subsequent irregular stay only the entry should be reported to the statistic as a case provided that the date and place of the entry can be identified and took place within the last six month. Otherwise a case of irregular stay should be reported (BKA (Bundeskriminalamt) 2007: 23). Moreover, the table 18 include also migrants that tried to leave the country.

The development of the figures shows all in all that the amount of irregular entries has decreased significantly since 1998 and is since 2003 continuously below 20,000 cases. According to the Federal Police, between 1998 – 2005 the number of unauthorized entries decreased from 40,201 to 15,551 cases and increased in the year 2006 to 17,992 (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 159).

Taking into account that in the same period the border enforcement was intensified it is realistic to assume that attempts of irregular entries decreased in reality. The explanation that this development is the result of increased efficiency and deterrent effects of border enforcement in situation of still high “pressure” of irregular immigration does not convince. In the situation of continuously high “pressure” the intensification of border enforcement would lead to circumventive strategies like the increased use of false or forged papers or the use of human smugglers. This should be visible in the information on the use of forged or falsified documents or the reliance on human smuggler.

**Table 18: Federal Police Statistics on cases of unauthorized entries**

<b>Year</b>	<b>Cases of detections of unauthorized entries by Federal Police</b>
1990	7,152
1991	23,587
1991	44,949
1993	54,298
1994	31,065
1995	29,604
1996	27,024
1997	35,205
1998	40,201
1999	37,789
2000	31,485
2001	28,560
2002	22,638
2003	19,974
2004	18,215
2005	15,551
2006	17,992
2007	15,445

Source: Federal Police, presented in BAMF 2007:289

#### **3.2.1.4 - Figures of smuggling cases**

Next data presented in the migration report is the number of apprehended unauthorized immigrants identified as being smuggled and also numbers of human smugglers involved (see table 19).

**Table 19: Apprehensions on German borders of smuggled persons, smugglers, cases of smuggling, 1990-2006**

Category	2000	2001	2002	2003	2004	2005	2006
Apprehended smuggled persons	10,320	9,194	5,713	4,903	4,751	2,991	3,537
Apprehended smugglers	2,740	2,463	1,844	1,485	1,534	1,232	1,444
Smuggling cases	2,690	2,567	1,837	1,465	1,488	1,199	1,311
Smugglers per smuggling case	3,8	3,6	3,1	3,3	3,2	2,5	2,7
Apprehended smuggler per smuggling case	1,0	1,0	1,0	1,0	1,0	1,0	1,1

Source: BAMF 2007: 162

It is not clear how valid this figure is and what the relevance is for the overall account on unauthorized entries and stays. At least the consideration of this statistic may be relevant in order to qualify the general trends of decreasing irregular entrants because it shows that the figure of smuggling decreased during a period that is characterised by an intensification of border enforcement. Taking into account that the risk of detection of human smuggling may have increased the statistical account supports the assumption that irregular entries decreased.

### 3.2.1.6 Use of forged or falsified documents by kind of borders

The Schengen-Experience report (2007) provides information on the use of forged or falsified documents for unauthorized entry. This information is important because it may give an idea about the effects of intensified border enforcement. Table 20 shows the main information on the detection of confiscated forged or falsified documents at borders.

**Table 20: Confiscation of forged or falsified documents at land borders, airports and harbours**

Country	2005	2006	2007 (first six months only!)
Poland	1,471	1,293	795
Czech Republic	558	535	281
Switzerland	610	610	244
Sea ports	116	52	29
Airports	2,132	1,580	683
Schengen borders, external borders total	4,887	4,070	2,032
Internal borders, total	1,540	1,389	726
<b>Borders Total</b>	<b>6,427</b>	<b>5,459</b>	<b>2,758</b>

Source: BMI (Bundesministerium des Innern) 2007: 32

The data is difficult to interpret because there is no indicator how many persons managed to pass controls with false papers (undetected cases).

Another important aspect is that not all people who arrive without the required documents are returned. The Schengen-Experience report indicates that only about one third of the persons transported without the required authorisation are returned immediately and the rest is allowed to enter. This group of people may consist of persons who simply made a formal violation of entry regulations but there may be also some that have tried to enter without required permissions and cannot be returned because of legal obstacles or because the person has asked for asylum.

### 3.2.1.7 Use and forged or falsified documents by nationalities

Another relevant information in order to get a substantiated estimate of unauthorized entries is the use of forged and falsified documents. The available information is presented in table 21 is unevenly distributed among nationalities.

**Table 21: Use and forged or falsified documents by nationalities**

Country / Year	Passports		Residence permits		Visa	
	2005	2006	2005	2006	2005	2006
Albania			10		41	27
China				11		
Iran	169					
Iraq		128				
Nigeria	319	240	28	25		
Serbia-Montenegro				10		
Russia						38
Turkey					55	50
Ukraine	347	201	19		33	
<b>Total</b>	<b>2,659</b>	<b>1,915</b>	<b>195</b>	<b>156</b>	<b>330</b>	<b>314</b>

Source: BMI (Bundesministerium des Innern) 2007: 4

The information direct attention to the fact, that some nationalities which are not present in other statistics on unauthorized entries or stays are visible here. This shows that immigrants from particular countries that face higher probability of surveillance try to establish an unauthorized entry or stay with forged or falsified documents. This strategy may turn out to be successful as least as long no intensive examination of the documents and the data is realized.

It seems to be more plausible to explain the decrease with the changed legal framework. In particular the EU integration (resp. the introduction of visa free entrance) of countries that were important origin countries reduced the number of irregular immigrants because citizens are no longer subject to the immigration law but to the European mobility law.

### 3.2.1.8 Irregular entries by nationality

The Federal Police provides also information on the nationality of the cases of apprehended immigrants entering unauthorized. The available figures on irregular entries cover foreign nationals (including EU citizens) and show the composition of unauthorized entering immigrants with regard to nationality in table 22.

**Table 22: Cases of suspects apprehended for unauthorized entry by nationality**

<b>Nationality</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Albania	289	340	329	275	–	–	240
Afghanistan	3,231	2,075	1,083	610	–	–	176
Armenia	311	964	378	131	–	–	198
Bosnia and Herzegovina	504	405	249	282	–	–	250
Bulgaria	708	815	1,091	636	713	462	547
China	718	471	1,017	1,371	1,109	879	1,026
India	1,601	1,354	839	605	453	430	403
Iraq	1,940	2216	1,835	944	422	665	1,003
Serbia and Montenegro	2,822	2,521	2,172	1,739	1,555	1,390	1,598
Macedonia	649	645	402	277	–	–	285
Moldova	2,415	1,379	701	494	379	497	306
Poland	438	332	255	245	–	–	–
Romania	3,456	2,916	1,118	1,166	1,247	1,253	2,459
Russian Federation	961	823	1,129	1,473	1,767	1,196	1,113
Sri Lanka	1,241	292	142	118	–	–	121
Turkey	1,597	2,184	1,809	1,486	1,251	1,256	1,253
(former) USSR	–	–	–	–	–	–	–
Ukraine	1,107	1,325	1,125	1,362	1,736	1,158	1,640
Belarus	–	–	–	–	–	–	332
<b>Total</b>	<b>31,485</b>	<b>28,560</b>	<b>22,638</b>	<b>19,974</b>	<b>18,215</b>	<b>15,551</b>	<b>17,992</b>

Source: Migrationsbericht 2006: 291



According to this information, in 2005 the following nationalities were among the “top-ten” of irregular entries (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 160)).

**Table 23: “Top-ten” of nationalities in 2005**

1	Serbia and Montenegro	(8.9 %)
2	Turkey	(8.1 %)
3	Romania	(8.1 %)
4	Russia	(7.7 %)
5	Ukraine	(7.4 %)
6	China	(5.7 %)
7	Iraq	(4.3 %)
8	Moldova	(3.2 %)
9	Bulgaria	(3.0 %)
10	India	(2.8 %)
Ret	Other nationalities	(40.9 %)

Source: BAMF 2007: 143

The information shows that also citizens of countries that enjoy the visa-free entry (Romania, Bulgaria) are still included. The main reason is that there are person who were already sanctioned with a re-entry ban for a previous irregular entry or stay. It may be the case that these persons were apprehended when they tried to pass the official border crossing point not aware that the introduction of the visa-free entry did not automatically lift the entry-ban.

### **3.2.1.9 Distribution of apprehensions among border sections**

German authorities provide further information on the distribution of apprehensions among border sections (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 11). Table 24 shows that the border with Austria is the most important are for apprehensions of irregular entries.

**Table 24: Border areas where unauthorized entries are registered**

<b>Year / Border areas with...</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Poland	3,293	2,592	1,974	2,208	2,277	1,111	957
Czech Republic	11,739	7,141	2,500	2,147	1,651	858	878
Austria	7,404	8,210	7,518	5,479	4,467	3,755	3,888
Denmark	203	222	230	211	180	212	234
Schengen borders total	12,725	16,377	15,679	13,075	10,884	9,497	10,445
Switzerland	591	946	844	862	935	811	1,515
Sea borders	250	122	481	596	497	545	287
<b>Total</b>	<b>31,485</b>	<b>28,560</b>	<b>22,638</b>	<b>19,974</b>	<b>18,215</b>	<b>15,551</b>	<b>17,992</b>

Source: BAMF 2007: 290, using data from Federal Police

The share apprehension in the border area with Austria remained relatively high within an overall decreasing trend with 23.5 % in 2000 and 21.6 % in 2006. The importance of the border area with Austria is explained with intensified control efforts introduced in response to the increase of unauthorized migration from Mediterranean countries. The high number of apprehensions at the German-Swiss border is explained with the attempts of foreign nationals who are related to Swiss nationals and tried to enter Germany after the introduction of visa free entry although they are still subject to visa requirements (Bundesministerium des Innern 2007: 7).

The data indicates that the number of apprehensions is probably linked with the reorganisation of border control. Apprehensions decreased on the border to Poland since the early 1990s and on the border to Czech Republic since 1998. This reduction is attributed to the increased border control introduced by Poland and Czech Republic at their eastern borders; the intensification of control by Federal Police at this border and intensified cooperation between German and Polish resp. Czech border enforcement. But also the introduction of visa free entrance for Polish and Czech nationals and the normalization of the economic and social situation in these countries contributed to the decreasing trend of irregular entries at the border areas with these countries.

### **3.2.1.5 Distribution of unauthorized entries by kind of borders**

A further source with more detailed information provides the Schengen-Experience report published by the Federal Ministry of the Interior (table 25).

**Table 25: Unauthorized entries detected at German borders**

<b>Borders with/ Year</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
<b>Total</b>	<b>15,551</b>	<b>17,992</b>	<b>7,326</b>
<b>Interior borders total</b>	<b>9,497</b>	<b>10,445</b>	<b>4,271</b>
Austria	3,755	3,888	1,640
France	2,042	3,271	1,260
Luxembourg	118	112	44
Belgium	1,326	1,089	504
Netherlands	2,044	1,851	744
Denmark	212	234	79
<b>External borders total without airports and sea borders</b>	<b>2,780</b>	<b>3,350</b>	<b>1,478</b>
Czech Republic	858	878	485
Poland	1,111	957	313
Switzerland	811	1,515	680
<b>Airports and sea borders</b>	<b>3,228</b>	<b>4,150</b>	<b>1,527</b>
Sea borders	545	287	136
Airports	2,683	3,863	1,391

Source: BMI (Bundesministerium des Innern) 2007: 30

\* The information for the year 2007 includes only apprehensions between 1.1. – 30.6. 2007

According to this information the most important areas authorities detect irregular immigrants on the borders are the land borders while the sea borders are hardly used. Also the figure of detected irregular entries via airports is quite small compared with the land entries. However, the Schengen-Experience report indicates that airports are a focus of detection of forged or falsified documents.

### **3.2.1.8 Detection of and responses to unauthorized transports**

Another interesting information provided by the Schengen-Experience report is the reaction by border enforcement to persons suspicious of unauthorized transport (table 26).

**Table 26: Unauthorized transport according to § 74 AuslG**

Year of unauthorized transport	Unauthorized transport	Reaction	
		Rejection (Zurückweisungen)	Entry allowance (Einreisegestattungen)
2005	9,147	2,038	6,735
2006	9,804	2,302	7,170
2007	5,397	1,275	3,985

Source: BMI (Bundesministerium des Innern) 2007: 32

The data shows that the legal provision that requires transport business (in particular airlines) to transport only passengers in possession of required documents (visa, residence permit) does not necessarily prevent that unauthorized immigrants enter. The available figures show that more than two thirds of unauthorized transported passengers were allowed to enter. The reasons are not clear. It may be the clear that the violation of regulations was only of formal and technical nature and that the passengers fulfilled the requirements for entry. It is also obvious that the amount of unauthorized transports decreased what indicates that the transport enterprises implemented the requirements more seriously.

### **3.2.1.9 Summary on Federal Police statistics**

The BAMF notes that the since 1998 decreasing numbers of unauthorized immigration indicate - against the background of intensified and extended control activities - a general reduction of unauthorized immigration to Germany. However, the authors underline that no simple causal relation exists. The apprehended unauthorized entrances are only the known cases (Hellfeld) of irregular immigration. The relation between known and unknown cases (Dunkelfeld) is not static. It is possible that an interaction takes place between control efforts of border control authorities and the strategies and technologies of human smuggling groups to facilitate unauthorized entrance. Intensified control efforts do not necessarily lead to the decrease in unauthorized entrances but may also lead to the situation that irregular immigrants more often cooperate with human smugglers in order to circumvent controls. The authors underline that the evidence of statistics would be stronger when a relation with the overall immigration of foreign nationals could be found. The report then presents a comparison of the trends of immigration and apprehensions and found similar trends (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 12). However, when the trends are compared for special nationalities, it turned out that the similarity is no longer that clearly given. Accordingly, the authors of the BAMF-report conclude that the overall immigration trend does not allow projections for unauthorized immigration.

### 3.2.2.1 PKS data on unauthorized entries

As already mentioned, the PKS provides information on cases and characteristics of suspected persons. The PKS includes information on the characteristics of offences and also on suspect persons, including foreign nationals without a legal status. The PKS accounts on the offence irregular entry (7251) and also on the category of foreign nationals including suspects without legal status (table 61).

Registration is done with reference to an offence. This means that for example all persons who are suspect of a violation of the penal code section that defines the requirements for legal entry and sanctions of violation. Thus the statistic on persons suspicious of the offence irregular entry includes also accomplices like human smugglers of foreign and German nationality.

### 3.2.2.2 PKS total of persons suspect of unauthorized entry

The PKS provides information on persons suspicious of the offence unauthorized entry. Of 26,679 suspects with foreign nationality, 22,162 suspects had no legal status, but 4,517 possessed a legal status. Among the legal status there were 8 members of allied armies, 803 tourists/travellers, 25 students/pupils; 157 workers, 33 traders, 1,421 asylum applicants, and 2,068 other (BKA (Bundeskriminalamt) 2007: table 61, p. 33).

Among the 26,378 investigated cases, 24,833 suspects acted alone (94,1) and 3,303 persons were already registered as previous suspect, and 7 persons had a fire-arm when apprehended (BKA (Bundeskriminalamt) 2007: table 12, p. 12).

**Table 27: Development of number of foreign nationals without a regular status suspect of unauthorized entry (key 7251)**

<b>Year</b>	<b>Unauthorized entry – PKS data (key 7251)</b>	<b>Of those Foreign nationals</b>	<b>Of those with regular residence status</b>	<b>Of those without regular status</b>	<b>For comparison: Apprehensions by Federal Police of cases entering unauthorized – inflow</b>
2000	50,635	49,487	n.d.	n.d.	31,485
2001	53,576	53,041	n.d.	n.d.	28,560
2002	44,362	43,949	n.d.	n.d.	22,638
2003	33,509	33,188	n.d.	n.d.	19,974
2004	30,037	29,746	3,615	18,068	18,215
2005	23,764	23,525	4,149	19,376	15,551
2006	26,913	26,679	4,517	22,679	17,992

Source: PKS; and BMI (Bundesministerium des Innern) 2007: 289

The PKS indicates that not only the directly involved immigrants without a regular status are registered as offenders but also persons with a regular residence status or even German nationality that acted as accomplices in order to facilitate the unauthorized entry. For example, in 2006 the PKS reports a total of 26,913 persons suspicious of unauthorized entry. Of those, 26,679 persons were foreign nationals (99.1%). Among the foreign nationals 22,162 had an irregular status and 4,517 had a legal status. Thus, in 2006 the total of irregular immigrants suspicious of unauthorized entry was only 22,162 (83% of all registered suspects). At least the PKS system allows to clear data because the person register includes the characteristics of regular status, unauthorized status and German nationality.

**3.2.1.2.2 Unauthorized entry by gender**

The PKS provides information on the gender of persons suspicious of unauthorized entry (see table 28).

**Table 28: Development of number of irregular entries without with regard to gender**

Year	Unauthorized Entry – PKS data (key 7251)	Of those male	Of those female
2000	50,635	41,158	9,477
2001	53,576	42,680	10,896
2002	44,362	34,913	9,449
2003	33,509	25,932	7,577
2004	30,037	21,887	8,150
2005	23,764	17,143	6,621
2006	26,913	18,633	8,280

Source: PKS, ongoing volumes, key 7251, table 1

Table 28 shows that the gender ration for irregular entries shows a clear trend towards a higher share of female irregular immigrants. In absolute figures, the number of male irregular entries reduced in the period 2000 to 2006 from 41,158 persons to 18,633 persons, while the figure for female irregular entries reduced only from 9,477 to 8,280 in the same period. As a consequence, the share of female irregular entries increased from 18.7% in 2000 to 30.8% in 2006 (BKA (Bundeskriminalamt) 2007: table 1, p10)

**Information on national composition of suspects of unauthorized entry**

The PKS includes also for every suspect person the nationality. However, the nationality is not described in more detail for the offence “unauthorized entry” of relevance here but only on a highly aggregated level for all foreign suspects.

### 3.2.2.3 Age and gender structure of foreign nationals suspect of unauthorized entry 2006

The PKS provides an account of the age groups of suspected (table 29).

**Table 29: Age structure of foreign nationals suspicious of unauthorized entry (7251)**

Age	2006						
	Total	Men	Men in %	Age group for gender men	Women	Women in %	Age group for gender women
Children below 14	148	84	0.46	<b>4.73 % below 14 years</b>	64	<b>0.77</b>	<b>4.74 % below 14 years</b>
Youth 14-17	1,123	795	4.27		328	3.97	
Young adults 18-20	2,144	1,481	7.94	<b>75.81 % 18 – 39 years</b>	663	8.00	<b>70.26 % 18 – 39 years</b>
Adults 21-24	4,225	2,954	15.85		1,271	15.35	
25-29	5,633	4,036	21.66		1,597	19.29	
30-39	7,944	5,657	30.36		2,287	27.62	
40-49	3,803	2,535	13,60	<b>19.46 % 40 years and older</b>	1,268	<b>15.31</b>	<b>25 % 40 years and older</b>
50-59	1,423	835	4.48		587	7.09	
60 and older	471	256	1.38		215	2.60	
<b>Total</b>	<b>26,913</b>	<b>18,633</b>	<b>100%</b>	<b>100%</b>	<b>8,280</b>	<b>100 %</b>	<b>100 %</b>

Source: PKS Table 20, (page 20 of 25), BKA (Bundeskriminalamt) 2007: table 20, p. 24

The information shows that more than 70% of foreign nationals apprehended as suspect of unauthorized entry are in the economically active age of 18 – 40 years.

### 3.2.1.3 EURODAC provided by BAMF

Another data source mentioned by BAMF as a possible source for information on unauthorized entries is the EURODAC data base (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 19f). The EURODAC is a register introduced to implement the Dublin-II agreements that aim to prevent that refugees submit asylum applications in more than one EU member states. The EURODAC data base allows since 2003 to check if a refugee has already submitted an asylum application in another country. The system is used when authorities have the suspicion that an apprehended irregular immigrant has lived in another EU member state

before. With the use of the EURODAC system German authorities found out that in 2003 altogether 985 apprehended irregular immigrants were registered in another EU member state as asylum applicant, in 2004 the number was 2,866 and in 2005 it was 3,400. The previous asylum applications were mainly submitted in Austria and Sweden. The authors underline that the increase does not indicate an increase in irregular migration but a more intensified use of the EURODAC system. The EURODAC system is not appropriate to estimate the total of irregular immigration. But in the long run it will show – according to the authors of the BAMF study – the existing connection between irregular migration and asylum migration (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 19f).

### **3.2.2 Border related outflows**

As indicators for the category of border related outflows serve statistics on deportation and removal, the refusal of visa applications, the promotion of voluntary return and return on own initiative.

#### **3.2.2.1 Deportation (Abschiebung) and Removal (Zurückschiebung)**

Deportation concerns persons with different residence status. Deportation had a peak in 1994 (53,043) and decreased until then. In 2006 13,894 deportations were realized (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 169).

Removal (Zurückschiebung) refers to immigrants which can be removed within six months after entry to the country they have entered Germany from: in 2006 all in all 4,729 persons were removed (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 170). BAMF also provides information on removals (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 12). Table 30 provide information on the trends. With respect to removals the BAMF emphasizes that that more than half of the removals concern citizens of EU- or EWR states and conclude that the figure of removals is not suitable for an assessment of unauthorized immigration (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 12).

According to the information from BAMF the deportation concerned in 2005 mainly citizens from Serbia and Montenegro (2,077), Turkey (1,956) and Vietnam (968) (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 169). There is no further information available to what extent deported persons had obtained a regular residence status or a tolerated status or were irregular immigrants.

Since the statistics do not distinguish between deported with (expired) and without residence status the figures are not suitable for an estimation of unauthorized immigration (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 14).



**Table 30: Deportation and removal of foreign nationals**

<b>Year</b>	<b>Deportation*</b> (Abschiebung)	<b>Removal**</b> (Zurückschiebung)
1990	10,850	4,281
1991	13,668	18,025
1992	19,821	38,497
1993	47,070	52,279
1994	53,043	32,91
1995	36,455	29,604
1996	31,761	27,249
1997	38,205	26,668
1998	38,479	31,510
1999	32,929	23,610
2000	35,444	20,369
2001	27,902	16,048
2002	29,036	11,138
2003	26,487	9,729
2004	23,334	8,455
2005	17,773	5,924
2006	13,894	4,729
2007	9,617	
<p>*Deportation means that a foreign national without residence status are returned to the country of origin if necessary by means of coercion</p> <p>** Removal means that a foreign national is returned to the country he or she entered from within six months after the unauthorized entry</p>		

Source: Federal Police, presented in BAMF 2007: 151, BAMF 2008: 169

### 3.2.2.2 Refusal of visa applications

Another available information the BAMF mentions is the statistic on refused visa applications. The authors raise the question whether a relationship may exist between refused visa applications and unauthorized immigration. The data set on refused visa application exists since 1 July 2003. The period is too short to get safe conclusions, but the authors see a high correspondence between the most important countries in both categories and accordingly see indications for such a link (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 12 f)

### 3.2.2.3 Promotion of voluntary return /REAG program.

Additional, the BAMF presents hitherto not published data that specifies the REAG program with respect to the residence status of persons involved (table 31). This data is registered since 2003 and shows that the share of persons without residence status that take part in the REAG program is very low (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 22).

**Table 31: Persons in the REAG/voluntary return program**

Year	Number of persons leaving	Of those persons without legal residence	Of those victims of trafficking or forced prostitution
1999	61,332		
2000	75,416		
2001	14,942		
2002	11,691		
2003	11,588	128	152
2004	9,961	311	112
2005	7,465	176	106
2006	5,764		

Source: BAMF 2007: 152

The persons registered in the REAG register are also filed in the statistics of Federal Police and PKS on unauthorized entries. Accordingly, this data does not provide any new or additional insights.

### 3.2.2.3 Border related outflow on own initiative

Another aspect not well known is the outflow of immigrants through border crossing points. As a matter of fact, there is some evidence that irregular immigrants do not only enter but also leave the country via border crossing points, particularly if they profit from visa-free entrance. Nationalities liable to visa requirements do not leave for a temporary trip for fear of detection and the re-entry ban (Shinozaki 2003). Other nationalities try to return from time to time like Ecuadorians or Ukrainians (Gomez-Schlaikier 2005, Rerrich 2006). The evidence is that the tighter the exit controls the less is the return frequency (Tapinos 1999).

On the other hand, outflow may concern persons for whom Germany is only a transit country for their irregular migration and they try to get to another country like Netherlands or UK. There is some evidence that in particular human smugglers organise transit migration (Neske et al 2004). As a rule, if the investigation shows the date and place of unauthorized entry within the last six months apprehended migrants will be included in the register on unauthorized entries. Otherwise, they will be counted as irregular stays.

The same rule should be applied in the case individual exits. As a rule, when the Federal Police for example at airports discovers an irregular migrant that attempts to exit this case is registered as irregular stay. It remains a matter of implementation to what extent exits can be proved as unauthorized entries or stays. But all in all, by this terminological operation the outflow of irregular immigrants is statistically made invisible.

Anyway, although there is some evidence that there is some outflow of irregular migrants across borders this pattern of movement is not documented in German statistics but included in the figures of unauthorized entry or unauthorized stay.

### **3.3 Status related flow**

The term status related flow refers to the possibility that a person may change from an unauthorized to a regular status (outflow) – but also from a regular to an unauthorized status (inflow). *Outflow* means mainly that a migrant after irregular entry receives a residence title when he or she asks for asylum (§ 10 residence act) or a toleration (§ 60 a residence act) in case that the removal or deportation cannot be realized due to legal, political or technical obstacles and also due to regularization by marriage. *Inflow* mainly means that an immigrant loses a regular residence status or toleration and falls (back) to an irregular stay. Thus, while access to the asylum system can be interpreted as a channel to surface from irregular stay, the numbers of rejected asylum seekers and the number of procedures that were closed otherwise may create a potential for an irregular stay. Accordingly, the figures of rejected asylum applications and the toleration are considered as a probable indicator for the assessment of irregular migration.

#### **3.3.1 Outflows to a regular status**

Lederer (2004) mentions among the channels that offer irregular immigrants a registered stay the asylum application (which is perceived as a kind of regularization), the acquisition of a tolerated status and a marriage. However, “numbers for these patterns of regularization are not available” (Lederer 2004: 162).

This category may involve regularization as it is organised in some other member states. In Germany, there is officially no regularization program. However, the granting of a tolerated status may be perceived as a kind of regularization. The toleration is granted in case obstacles (legal or technical) prevent the return of an immigrant who is obliged by law to leave. Another situation is the individual health situation that requires an urgent medical treatment. In such cases, foreigners’ offices issue toleration. The toleration is granted individually at any time for a limited period of time. It is strictly restricted but can be renewed. Toleration may open after some years the door for a permanent stay or for return or irregular stay.

It is difficult to find reliable information about the outflow from irregular stay to a regular status. As a matter of fact, in Germany some data sources include this situation but it remains

unclear whether persons receive a regular status by falling back from a better regular status or improved the status. Therefore, it seems to be impossible to qualify this data.

### 3.3.1.1 Regularization of an unauthorized entry through asylum application

The BAMF argues that the statistics on asylum applications can be also used as an indicator for unauthorized immigration because currently an asylum application is – due to the restrictions concerning the entrance – nearly only possible after irregular entry (BAMF 2006 quotes Vogel 1999; Lederer 2004: 173). Accordingly, the number of asylum applications is taken as another indicator in order to assess the volume of irregular immigration. For an overview see table 32. However, the picture is much more complex as a closer examination of the data suggests.

**Table 32: Asylum applications in Germany**

Year	First application	Second application	Total of decisions	Rejected	Otherwise closed	Decision that allowed a stay
2000	78,564	39,084	105,502	61,840	30,619	13,043
2001	88,287	30,019	107,193	55,402	25,689	25,562
2002	71,124	20,344	130,128	78,845	43,176	8,107
2003	50,563	17,285	93,885	63,002	26,189	4,703
2004	35,607	14,545	61,961	38,599	20,331	3,031
2005	28,914	13,994	48,102	27,453	17,529	3,121
2006	21,029	9,071	30,759	17,781	11,027	1,951
2007	19,164	11,139	28,572	12,749	7,953	7,893

Source: BAMF 2007: 89, BAMF 2008: 40

According to the “BAMF commissioner for entry routes” between 2000 and 2005 nearly two thirds of all surveyed asylum applicants (6% of the total of asylum applicants) were *smuggled* into Germany. But at least 10 persons of the surveyed asylum applicants stated that they reached Germany through regular channels (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 16f). This surprising result is supported by further insights of the BAMF: Out of 28,914 asylum applicants in the year 2005 at least 751 had successfully applied for a visa at a German diplomatic representation. This is a share of 2.6%. Taking into account a probable high share of undetected cases – caused by the use of different names for the application of visa and asylum or the application at the diplomatic representation of another Schengen state it seems to be the case that the share of asylum seekers that entered Schengen area officially is higher as hitherto assumed (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 17).

Even when the rejected and otherwise closed application procedures create a potential for irregular migration the further trajectory is unknown. Authorities do not know exactly to what extent the rejected or “disappeared” asylum seekers leave or remain. Available information show, however, that the potential of rejected asylum seekers is probably not that high as the available information on the further trajectory show. A considerable share concerns the so-called Dublin decisions. This means that the German authorities hold the opinion that another EU member state is responsible for the asylum procedure because this person has first lived in the other member state before coming to Germany. Also a considerable number of asylum seekers receive after rejection the status of humanitarian protection and thus remains known to the authorities as closer examination of data suggests (BAMF (Bundesamt für Migration und Flüchtlinge) 2008). A great share remains officially registered – according to information from BAMF among tolerated persons the share of those with previous asylum procedure is 60%.

A full list of the top-ten countries of origin of asylum applicants for the last decades and all nationalities is provided by ((BAMF (Bundesamt für Migration und Flüchtlinge) 2007:15) and (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 16). The 2007 “top-ten” countries of asylum seekers in Germany are shown in table 33.

**Table 33: The “top-ten” countries of asylum seekers in Germany 2007**

<b>Position</b>	<b>Country</b>
1	Iraq
2	Serbia
3	Turkey
4	Vietnam
5	Russian Federation
6	Syria, Arabian Republic
7	Iran, Islamic Republic
8	Lebanon
9	Nigeria
10	India

Source: BAMF 2008: 10

In 2007, the asylum applications were handed in from immigrants from Asia (10,262); Europe (4,930), Africa (3,486), America (121) and Australia/Oceania (1). It is an interesting fact that immigrants from African and Asian countries hold a relatively high share in this category. The BAMF observes a relation between irregular entry and asylum applications: The main countries or origin show a high convergence for the categories irregular entry and asylum application: “Among the top 10 of countries of origin six countries appear in both categories and in the year 2003 even seven” (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 19).

## Age and gender of asylum applicants

The BAMF provides also information on the age structure and Gender relation of asylum applicants. Table 34 summarizes the information.

**Table 34: First asylum applications according to age and gender 2007**

<b>Age group</b>	<b>Total</b>	<b>(in %)</b>	<b>Male</b>	<b>(in %)</b>	<b>Female</b>	<b>(in %)</b>	<b>Share of male</b>	<b>Share of female</b>
Until 16	6,538	34.1 %	3,533	27.9 %	3,005	46.2 %	54.0 %	46.0 %
16-17	968	5.1 %	759	6.0 %	209	3.2 %	78.4 %	21.6 %
18-24	4,375	22.8 %	3,425	27.1 %	950	14,5 %	78.3 %	21.7 %
25-29	2,990	15.6 %	2,215	17.5 %	775	11.9 %	74.1 %	25.9 %
30-34	1,793	9.4 %	1,224	9.7 %	568	8.7 %	68.3 %	31.7 %
35-40	1,023	5.3 %	669	5.3 %	354	5.4 %	65.4 %	34.6 %
40-44	577	3.0 %	370	2.9 %	207	3.2 %	64.1 %	35.9 %
44-49	348	1.8 %	210	1.7 %	138	2.1 %	60.3 %	39.7 %
50 and older	553	2.9 %	254	2.0 %	299	4.6 %	45.9 %	54.1 %
<b>Total</b>	<b>19,164</b>	<b>100 %</b>	<b>16,659</b>	<b>100 %</b>	<b>6,505</b>	<b>100 %</b>	<b>66.1 %</b>	<b>33.9 %</b>

Source: BAMF 2008b: 22

The information concerning age and gender shows that also in this category the gender relation is again one third female and two thirds male. Moreover, the data complies with other observations that the age group of irregular immigrants focus on 18-39 years old persons. However, among asylum seekers there is a much larger share of children. About one third of registered asylum seekers are under 16 years old. This indicates the importance asylum has for refugee families. The high share of under aged can be explained partly with the fact that new born children of asylum applying parents are registered ex officio (Bundesregierung 2008).

## Information on statistics on the distribution of persons that entered unauthorized (VIA) and cannot be removed

Another statistic introduced by the BAMF authors is the register VIA on the distribution among the federal states of persons that entered unauthorized and cannot be removed and do not launch an asylum application (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 20). Between January 2005 and June 2006 altogether 1,964 persons were registered and distributed. However, the BAMF authors concede that this statistic covers a part of irregular

immigrants which are already registered in other statistics. Moreover, this statistic rather informs about the activities of authorities and cannot be taken as source for the assessment of irregular immigration (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 21).

### 3.3.1.2 Obtaining a toleration

The BAMF provides with the foreigners' central register a source for the amount of foreign nationals with a tolerated status (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 6f) In a strict sense the registered persons are not irregular because they are known to the authorities. However, some experts stress that the persons obliged to leave provide at least a potential for irregular stays because person may go underground since they have developed social relations and therefore incentives to stay irregularly. On the other hand, among persons with toleration there may be also some who surfaced from irregular stay.

As already mentioned, there is no reliable information about the share of migrants that fall back from a regular residence status to toleration and the share of migrants that upgraded their residence from irregular stay to toleration. Table 35 presents the available information from the AZR.

**Table 35: The development of toleration**

<b>Year</b>	<b>Persons obliged to leave (AZR)</b>	<b>Persons obliged to leave with toleration (stock)</b>	<b>Persons obliged to leave without toleration (stock)</b>
2003	453,306	226,569	
2004	371,074	202,929	
2005	296,727	192,155	104,574

Source: BAMF 2008: 35

However, all in all the number of registered persons obliged to leave decreased in the last years (BAMF (Bundesamt für Migration und Flüchtlinge) 2008: 7). Currently, about 200,000 persons have a toleration.

It is not clear how many persons receive a toleration after expiration of the regular residence permit or because they surfaced from irregular stay (because they are apprehended but cannot deported; or because they are sick; or pregnant; or because they are for other reasons allowed to stay – for example victim-witness program of police). Tolerated people are entitled to a reduced level of welfare. The Federal Government informed that to 30. June 2007 more than 90,000 of the altogether about 160,000 tolerated foreign nationals lived in Germany six years or longer (Bundesregierung 2005).

The BAMF state that at least a part of the persons who are obliged to leave receive toleration due to obstacles that prevent the return or removal. The BAMF states that about 60% of all tolerated foreign nationals are former asylum seekers. In 2004 the share was even two thirds caused by the Iraq war (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 18). In this

sense, the toleration means rather a change from one registered status to another one and not the surfacing from illegal stay.

### 3.3.1.3 Convenience marriages

Another indicator mentioned in the debate is the number of cases of suspicion of convenience marriages in order to obtain a residence status. From official point of view this is perceived to be a violation of law. From a technical point this can be perceived as a channel to prevent or to escape from an irregular stay.

Marriages of convenience are not well researched and documented. We can say at least that there are different patterns. On the one hand there is the support for solidarity reasons without commercial interest (family or ethical reasons); another pattern is the commercial interest when people agree into a marriage for money. Some information indicates that such an arrangement may cost up to 10,000 € A last pattern is the marriage as a trafficking strategy when organised criminal groups import women for forced sex work and try to disguise this by the arrangement of a marriage. The PKS provides information on the suspicious cases of convenience marriages (see table 36).

**Table 36: Suspect of marriages of convenience (key 7253)**

Year	Persons suspicious of marriage of convenience	Of those foreign nationals
2000	5,269	3,347
2001	4,457	2,919
2002	4,360	2,771
2003	4,458	2,839
2004	7,527	5,259
2005	6,421	4,537
2006	8,743	6,874

Source: PKS, ongoing statistics 2001-2006, unlawful obtaining of residence title through convenience marriage § 95 Abs. 2, Nr. 2 residence act (key 7253)

The increase in reported cases is difficult to interpret. As a matter of fact, it may be the case that the increase is only the effect of a tighter attention of authorities. Indeed, the topic of convenience marriages was raised several times in the last decade. The increase may also indicate that there has developed in the last two decades a considerable stock of insecure and irregular immigrants that now seek to realize an individual regularization of the stay. Another interpretation is that in the last year the arrangement of convenience marriages increased in response to the tightened immigration regulations.

It remains however unclear if the marriage of convenience is a means to get entry to Germany or if it is a mean to improve an already obtained residence or to surface from illegality. The legal and administrative obstacles against a marriage of irregular immigrants who are not



officially registered in Germany are considerable. Couples use to marry in another member state and then come back to Germany.

### **3.3.2 Status related inflows**

The status related flow can also go from a legal or at least registered (tolerated) to an irregular stay. This may concern rejected asylum seekers who are obliged to leave the country or immigrants with a temporary residence permit or toleration that has expired and who do not comply with the order to leave but go underground.

Again, there is no reliable data available on trajectory patterns of immigrants. As a rule, German authorities are tough in the execution of the immigration law and do not grant a residence permit unless requirements are met. However, in some cases although persons are obliged to leave the authorities cannot realize that foreign nationals really leave the country but at least reach that hitherto tolerated or registered persons fall back to an irregular status. In particular in the case of immigrants with an insecure, tolerated or falsely declared status the probability is relatively high that these persons will remain in Germany the longer they have lived in Germany because they have already established social networks and may expect to receive support that may help to survive. However, there is no reliable information or data available about the remaining of foreign nationals after the rejection of an asylum application or the expiration of a tolerated status.

But at least, scholars consider the information on rejected asylum applicants and foreign nationals with lost toleration as a possible indicator for an assessment of irregular immigration inflow.

#### **3.3.2.1 Rejected Asylum seekers**

In particular asylum applications which are rejected or otherwise closed may create a potential for going underground. About 90% of asylum applications are rejected, and about 60% of the rejected asylum seekers are obliged to leave the country. (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 16f). With respect to rejected asylum seekers, the share of persons that go underground is however difficult to estimate. Only some anecdotal evidence and some narrow and institution-bound quantitative registrations by welfare associations show that among unauthorized immigrants there are also refugees (BAMF (Bundesamt für Migration und Flüchtlinge) 2006: 18).

Information on rejected asylum applications provide the BAMF for the period 1990-2006 (BAMF (Bundesamt für Migration und Flüchtlinge) 2007: 104). In 2006, the total decisions of asylum applications was 30,759, of those only 251 (0.8%) were recognized. Altogether 17,781 (57.8 %) were rejected, while 11,027 (35.8 %) were otherwise closed (i.e. the application was retreated while applicants turned back or to another country). But as a rule, the majority of rejected asylum applicants seem to remain in a status registered by the state.

They may receive toleration because they successfully appealed against the court decision or they received toleration because obstacles against deportation exist. According to information from BAMF about 60% of the tolerated persons did before apply for asylum (BAMF (Bundesamt für Migration und Flüchtlinge) 2006). But rejected asylum seekers may also go underground. That such a going underground takes place is shown in qualitative studies (Alt 1999: 38) and evident from information provided by advice centres. But it seems that a particular share evade going underground by appealing against the court sentence or because there are obstacles against deportation.

It is not clear what happens when authorities perceive that the obstacles against exit are no longer existing and do not extend toleration. As a matter of fact, some persons are detained and deported. But there is no clear indication how many of the deported persons were before tolerated. Others are handed out a so-called order to leave (Grenzübertrittsbescheinigung), a paper the immigrant should hand over at the border crossing point to the officers. Again, there is no clear evidence what happens. Sometimes, the order to leave is extended again, in other cases the immigrant do as was told and leaves and in some cases the immigrant disappears and goes underground. While the tolerated status seems to be a potential source for inflow into an irregular stay – in practice this seems to take place rather in few cases due to the practice of extension (BAMF (Bundesamt für Migration und Flüchtlinge) 2006).

### **3.3.2.2 Visa overstayers**

Also immigrants with an only temporary visa (among family members, migrant workers) may decide to go underground and remain although the temporary residence or work permit has expired. There is no reliable information but information from qualitative research indicates that this overstaying is a channel for unauthorized entry and stay.

There is some anecdotic evidence that some temporary migrant workers decided to stay and take up an undeclared employment when residence and work permit expired. In this sense, the large scale programmes for the temporary employment of seasonal workers and contract for services - see chapter 1 - may serve as a first step into an irregular stay. However, there is no clear information. It seems to be the case that also some tourists who came for a visit remained when they see a chance to participate in the informal labour market and notice that they have a survival chance in Germany.

Officially admitted migrant workers may be also perceived as undeclared employed when authorities detect, that statutory conditions of work and pay are violated. For example, the neglecting of the minimum wage is registered as undeclared employment and the detection of the offence may lead to the loss of the residence and work permit. However, with the EU accession of the main sending countries of temporary migrant workers the offence is no longer characterised as violation of immigration law and will further lose significance.

## **Part III:**

### **Discussion and policy implications**

#### **Role of estimates and data in the public debates**

In the public debate, the estimate of one million irregular immigrants seems to be the widely accepted figure. The debate on the amount of irregular migration is a continuously tackled issue that used to gain relevance when linked to other sensitive issues like the asylum system or undeclared employment. The quantitative amount is relevant as an indicator for problems with unwanted immigration but all in all, the quantitative dimension is not the most important aspect in public debate. There is a consensus that the amount of irregular immigrants in Germany is considerable and requires some responses, but the proposed actions are quite different. Representatives from the Ministry of the Interior and from conservative parties use to substantiate actions for combating irregular immigration rather with reference to the allegedly negative impact on welfare systems and labour markets than with reference to too high numbers of irregular immigration.

#### **Changes over time**

The available data and all insights give reasons to state the overall irregular immigration has decreased in quantitative terms since 1998. The probable reasons for this development may include mainly the change of legal framework due to EU enlargement; a decreased demand for irregular migrant workers in the informal economy; and the reform of national immigration and asylum law, the introduction of temporary employment schemes. It seems that the large inflow of irregular immigrants during the 1990s was an extraordinary phenomenon caused by the sudden abolishing of legal obstacles against the free travelling that had been introduced by Socialist states. All in all it seems that the introduction of freedom of movement for new EU citizens and the introduction of temporary employment schemes (seasonal work) had significant impact and reduced the inflow and stock of irregular immigrants – at least from these countries.

However, there are still only poor insights about the current stocks of irregular immigrants and the current development of irregular immigration from outside the European Union. Since nationals of the 12 new member states of the EU gained the freedom of movement and more opportunities to establish a stay (for example as self-employed or student) the stock of irregular population should have decreased due to the change of legal status. On the other hand, there is no clear evidence how the trend developed and will develop for non-EU nationals who need a visa for a regular entry. In many countries visa-overstaying seems to be the most important channel to establish an irregular stay. In Germany (and in this report accordingly) visa-overstaying did not receive much attention. The explanation for this fact

may include that the agreements of visa-free entrance with important countries of origin, in particular as EU enlargement made visa-overstaying unnecessary for many important nationalities. On the other hand, irregular immigration from countries subject to visa requirements like Turkey or Ukraine did not receive much attention until now. Since Germany did and does not perform consistent and exhaustive registration of exits of visa holders, there is no data available on overstayers. Furthermore, public attention used to focus rather on irregular entry and not on irregular (over-)staying.

### **Role of estimates in policy making**

As already indicated, politics seems to be not really interested in reliable estimates. In the political debate, the Federal Ministry of the Interior use to refer to the low number of detected cases in order to downplay the amount of irregular immigration in Germany. With reference to information from federal state authorities the BMI argued that there are no cases of criminal prosecution of humanitarian supporters. Also the amount of medical assistance or cases of employment related exploitation which are known to authorities is low. This evidence is on the one hand interpreted as proof that the problem of irregular immigration is exaggerated by charity associations and human rights groups and also the decreasing figure is mainly interpreted as a success of restrictive measures (BMI (Bundesministerium des Innern) 2007). Against the background of this argumentation the interest to get more reliable figures is rather weak.

### **Why these estimates and not others?**

The estimates mirror the perspective and standpoint of the different actors: Some are more courageous and comply with expectations from media or public and deliver some guesses while those who are more related to the academic field are rather careful and make rather conservative guesses. The level of estimates depends on the interests and the relation with the issue. For example, from the point of view of charity organisation and human rights organisations which are in direct contact with irregular migrants and which deal with the plights of irregular immigrants the level seems to be underestimated in the public debate. From this point of view and daily experience there is tendency to assume rather a high level of irregular immigration in Germany. On the other hand, public authorities show a more complex attitude. Related with the interest to justify high expenses on border enforcement and interior control on the one hand, and in order to show that the measures are successful and the concerns of human rights advocates and charity organisations are exaggerated they use to argue that there is a high “pressure” from foreign nationals to immigrate unauthorized but that due to the strict border control the number of persons who really enter unauthorized can be kept low. However, there was until now no attempt to systematically evaluate these competing standpoints.

## **Estimates used to measure policy efficacy**

Until now, public authorities do not make serious attempts to get to more reliable calculations or assessments of irregular migration. On the other hand, until now there was no demand for the development of a more transparent calculation of irregular immigration in Germany. Recently, only the BRH report criticized that supervising authority of labour inspection were not interested to develop a transparent accounting that considers irregular migrant workers and may allow conclusions on the efficacy of labour inspection (BRH (Bundesrechnungshof) 2008). A similar situation is observable with respect to the control of irregular immigration and border surveillance. The responsible Federal Ministry of the Interior showed until now no interest to cooperate with scholars in order to generate more reliable assessments on stock and flow of irregular immigration.

There is hitherto no attempt made to develop and qualify data in order to get a criterion for the efficacy of policies. Scholars argue that even if it will be impossible to get reliable estimates about irregular immigration, a methodologically controlled assessment would at least more ground the discussion. Moreover, a continuous reporting and assessment could at least inform about trends. Scholars developed several approaches to get methodologically controlled estimates. There are proposals to conduct methodologically controlled studies like controls of labour inspections on basis of a systematic random selection, or the application of capture-recapture method. However, these approaches require cooperation of research groups with control authorities. It depends on the political will if such approaches for the generation of more reliable assessments of irregular immigration in Germany will be conducted in the near future.

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