

THE CHALLENGE OF BECOMING AN IMMIGRATION COUNTRY.
THE CASE OF GERMANY IN THE LIGHT OF THE NEW LEGAL DRAFT ON
IMMIGRATION.

A THESIS SUBMITTED TO
THE GRADUATE SCHOOL OF SOCIAL SCIENCES
OF
MIDDLE EAST TECHNICAL UNIVERSITY

BY

YASEMİN YÜCE

IN PARTIAL FULLTIME OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF SCIENCE
IN
THE DEPARTMENT OF POLITICAL SCIENCE AND PUBLIC
ADMINISTRATION

NOVEMBER 2003

Approval of the Graduate School of Social Sciences

Prof. Dr. Sencer Ayata
Director

I certify that this thesis satisfies all the requirements as a thesis for the degree of Master of Science.

Prof. Dr. Feride Acar
Head of Department

This is to certify that I have read this thesis and that in our opinion it is fully adequate, in scope and quality, as a thesis for the degree of Master of Science.

Assoc. Prof. Dr. Mehmet Okyayuz
Supervisor

Examining Committee Members

Assoc. Prof. Dr. Mehmet Okyayuz

Prof. Dr. Ali Gitmez

Assist. Prof. Dr. Kürşad Ertuğrul

ABSTRACT

THE CHALLENGE OF BECOMING AN IMMIGRATION COUNTRY.
THE CASE OF GERMANY IN THE LIGHT OF THE NEW LEGAL DRAFT ON
IMMIGRATION.

Yüce, Yasemin

M.Sc., Department of Political Science and Public Administration

Supervisor: Assoc. Prof. Dr. Mehmet Okyayuz

November 2003, 137 pages

This study is looking for an answer to the question “Is Germany an immigration country?” that has been re-put on the agenda with the new immigration law. At the same time, different dimensions of the immigration country concept have been explained so that the evolution of the characteristics of immigration and Germany’s immigration history can be investigated in order to explain this question. The main argument of this study is that Germany has become a *de facto* immigration country by time and now with the new immigration law it will be recognizing this *de facto* phenomenon politically. Germany’s state system and structure is different from classical immigration countries and moreover it has a strong nation-state tradition that is a big barrier for its becoming an immigration country. Thus, while immigration issue in Germany is debated, the issues stemming from this nation-state tradition will be debated as well. Today, international developments and social dynamics force Germany to redefine itself. Germany is now debating the concept “Germany as an immigration country” and the new immigration law.

Keywords: Immigration Country, The New German Legal Draft on Immigration, Migration in Germany

ÖZ

GÖÇ ÜLKESİ OLMANIN ZORLUKLARI. YENİ GÖÇ YASASI TASLAĞI IŞIĞINDA ALMANYA ÖRNEĞİ.

Yüce, Yasemin

Yüksek lisans, Siyaset Bilimi ve Kamu Yönetimi

Tez Yöneticisi: Doç. Dr. Mehmet Okyayuz

Kasım 2003, 137 Sayfa

Bu çalışma, Almanya'daki yeni göç yasasının tekrar gündemleştirdiği “Almanya bir göç ülkesi midir?” sorusuna yanıt aramaktadır. Bunun yanında göç ülkesinin ne anlama geldiğini, Almanya'nın göç tarihinin bu bakış açısından nasıl geliştiğini incelemiştir. Bu çalışmanın amacı Alman yeni göç yasası ile Almanya'nın göç ülkesi olma yolundaki tartışmalarını yansıtmaktır. Çalışmanın temel tezi, Almanya'nın süreç içerisinde de facto göç ülkesine dönüştüğü, bunun yeni göç yasası ile politik olarak da tanınmaya başlamasıdır. Klasik göç ülkelerinden farklı kuruluş ve gelişim süreci yaşayan Almanya'nın, göç ülkesi olma yolundaki engelini güçlü milli-devlet anlayışı oluşturmaktadır. Bu sebeble Almanya'da göç ülkesini tartışmanın arkasında Alman milli-devlet anlayışından kaynaklı tartışmalar yatmaktadır. Ama toplumsal dinamiklerin ve uluslararası gelişmelerin etkisiyle Almanya yeni bir göç yasasını ve “göç ülkesi Almanya” konseptini tartışmaya başlamıştır.

Anahtar Kelimeler: Göç Ülkesi, Yeni Alman Göç Yasası Taslağı, Almanya'da Göç;

To my husband
Cafer TAR

We have experienced together, what is being “immigrant”.

ACKNOWLEDGEMENTS

First and foremost, Assoc. Prof. Mehmet Okyayuz, I am grateful to you for your help throughout this thesis and your support and understanding in bringing my personal experience on immigration to a level of scientific inquiry. I also thank Prof. Ali Gitmez and Asst. Prof. Kürşat Ertuğrul for their support and help.

Cafer Tar, my husband, without you so many things in my life, let alone this thesis, would not be complete. I thank you for your continuous support.

Special thanks to Cemil Yüce, my brother, who taught me the taste of involving in social sciences – without you I would not even have realized the beauty of learning and thinking. I thank you for your invaluable support and keeping on trusting and believing in me.

My sister Süheyla Yüce, you introduced me to the academic environment of the Middle East Technical University – without you I would not even have thought about studying here. I wish you success in your dissertation, too.

My friend Nurcan Özkaplan, we have been parted long while I have been gaining the experience of being an immigrant and thinking and writing about it. This process, which has started in the UK with you, ends here. To new adventures!

My beloved father, the school is now over...

My dear mother, I have never forgotten your beautiful face and I will never forget. This thesis is dedicated to your memory with endless longing...

I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

Date:

Signature:

TABLE OF CONTENTS

ABSTRACT.....	iii
ÖZ.....	iv
DEDICATION.....	v
ACKNOWLEDMENT.....	vi
TABLE OF CONTENTS.....	viii
LIST OF TABLES.....	x
CHAPTER	
I. INTRODUCTION.....	1
II. THEORETICAL FRAMEWORK AND CONCEPT OF IMMIGRATION COUNTRY.....	8
2.1. Theoretical approaches to ‘Migration’.....	8
2.1.1. Push and Pull Factors’ Approaches.....	11
2.1.2. Neo-Classical Economic Approaches.....	15
2.1.3. Segmented Labour Market Theory.....	17
2.1.4. Micro-Level Theory.....	20
2.1.5. World System Theory and Neo-Marxism.....	21
2.1.6. ‘Transmigrants’ Approach.....	24
2.2. Concept of ‘Immigration Country’.....	31
2.2.1. Immigration Country and Integration Politics.....	33
2.3. Classical Immigration Countries.....	51
2.3.1. Immigration policies in the US.....	52
2.3.2. Immigration policies in Canada.....	56
2.3.3. Immigration policies in Australia.....	61
2.4. Conclusion.....	64

III. IS GERMANY BECOMING AN IMMIGRATION COUNTRY?.....	66
3.1. Brief History of Migration to Germany.....	66
3.1.1. Between 1952 and 1973.....	66
3.1.2. Between 1973 and 1981.....	69
3.1.3. Between 1981 and 1990.....	72
3.1.4. Between 1990 and 1998.....	74
3.1.5. Post-1998 &The Impact of the Drafted New Immigration Law	78
3.2. The New Immigration Law.....	80
3.2.1. The Chronological history of the New Immigration Law.....	80
3.2.2. Corollaries and the Contents of the New Law.....	82
3.2.3. The Implications of the New Immigration Law.....	90
3.3. The Positions of the Political Parties in the Debates Concerning “Germany as an Immigration Country” and “The new Immigration Law”.....	94
3.3.1. The SPD.....	94
3.3.2. The CDU.....	97
3.3.3. The CSU.....	101
3.3.4. Bündnis 90/Die Grünen.....	103
3.3.5. The FDP.....	107
3.3.6. The PDS.....	108
3.4. Conclusion.....	110
 IV. DISCUSSION AND CONCLUSION: GERMANY IS BECOMING AN IMMIGRATION COUNTRY!.....	113
4.1. Why is Germany an Immigration Country?.....	113
4.2. Immigration Policies in the Immigration Country Germany.....	117
4.3. Last Statement.....	121
 REFERENCES.....	124
 APPENDIX A.....	132

LIST OF TABLES

TABLE

1. The number of foreigners who became German citizens between 1994 and 2000.....	80
---	----

CHAPTER I

INTRODUCTION

Political openings which are developed to deal with the outcome and the problems of Germany's immigration process which started in 1960s have been up to date discussed within various perspectives. A new discussion has recently emerged at this point where the status of guest workers, foreigners and minorities are debated. This new discussion is centered upon the question whether or not Germany is an immigration country. The outcome of this debate is expected to have significant effects on judicial and political positions of both current and future immigrants. In a Germany which politically defines itself as an immigration country, political and judicial rights of the immigrants will also alter. This discussion has gained a new impetus together with the "green card" debates which began in 2000.

Initially "Green Card" discussions started when German Chancellor Gerhard Schröder, in a speech he delivered in a computer trade show (Cebit Computer Trade Show) at the beginning of the year 2000, declared that Germany needed foreign computer specialists and a "Green Card" scheme could be considered for their admittance to Germany. The term "Green Card" was reminiscent of the US-style immigration policies and this would provide a prompt transfer of the desired qualified labour without facing any bureaucratic obstacles. If a Green Card is given to the needed immigrants then their residence and work permits could be regulated independently from the existing foreigners law. In addition, Germany wants to become more appealing with the help of this Green Card application because the specialists demanded by the German economy should have worldwide competitiveness. This debate shows that the new process, which is different from

Germany's previous guest worker experience, needs new dimensions and new concepts because the demand is not for unskilled labour this time. On the contrary, the demand is towards the people who are well educated, experienced and specialized in the high technology sectors.

The debate gained acceleration when German Employers' Association (BDA) and many important companies declared that they could not find suitable employees for the required positions and that this gives serious damage to German competitiveness. The German economy's need for skilled labour was opened to debate in such a time that the unemployment rate was reaching 10-11% with the relative decline of the German economy due to increased international competition. Qualified labour was necessary. The trend of the economy requires less manual labour but more specialized labour that can further develop computer based production systems. The unemployment, which is a major problem for the economy, is caused by the changes in the production system. The production is no more under the control of manual labour but under the control of computers and technology. The main dilemma that 21st century economies face is the shutting down of factories, their transfer to the countries where work force is cheaper, the decreasing demand for work force for the same position, the fact that less workers can produce the same amount with the help of the computer systems and robots, and thus increasing unemployment, economies' dependency on technology, lack of sufficient highly qualified labour that can sustain technological developments, and the quest and conquest for this highly qualified labour worldwide.

These developments clearly announced German economy's need for foreign labour, for the first time after 1970's, and this provided ground for further debates. One of them is the discussion about Germany's need for a new immigration law because the existing foreigners law could not properly manage the immigration and this same law was not encouraging the essentially needed immigrants. The foreigners law which was mainly shaped by the decision to stop foreign labour flow in 1973, remains as the biggest barrier in front of Germany's receiving skilled labour

immigration today. In order to solve this problem, “Green Card” system was tried in the first hand but when that system failed to work within the framework of the existing laws, a new immigration law came to the agenda.

Another reason for the making of a new law was that the required changes in Germany’s immigration and immigrant policies imposed themselves. Also there was a need to answer the longly debated question: “Is Germany an immigration country?”. The debated draft for a new law becomes vital for Germany and for this study in order to answer this question. The Commission on Immigration that prepared the draft of this new law answered the question positively . This new law started a political debate in this sense and it has not come to force yet because the political debate it has caused is not concluded. Since the new immigration law is not valid yet, it is not possible to argue its legal implications here. Thus, only the political implications of the drafted new immigration law will be argued in this study.

The new law suggests new dimensions concerning immigration and integration policies that were not taken into account in Germany before. For instance, the existing immigrants and the future immigrants’ stay in Germany for a long term, is now accepted. With this new law it has been clarified that the immigrants become a part of the society and new immigration policies should be in conformity with this fact, hence immigration policies built upon this acceptance and social understanding are typical features of an immigration country. These issues had been debated among immigrant associations and academicians and have been raised as political demands up to now. The new immigration law extended this debate to the realm of political parties and parliament.

Aim of the Study

This study aims to discuss this question “Is Germany becoming an immigration country?”, and impact of the drafted new law. This study aims to analyze the process of Germany’s becoming an immigration country by explaining what is understood by ‘immigration country.’

The aim of this study is to investigate whether Germany is an immigration country or not, a debate which was re-brought to the agenda by the discussions concerning the new immigration bill. Germany’s discussions on the issue of immigration has, for approximately two years, focused on the question whether Germany is an immigration country in connection with the debate on the new bill. The recognition of Germany as an immigration country will have vital impacts on the country’s immigration policies. Moreover, this issue has been discussed at the parliamentary level including the political parties and the media as well.

This study shall highlight the affects of the drafted new law and will provide the necessary ground for responding to the question ‘Is Germany becoming an immigration country?’. Germany’s 40-year immigration process from the perspective of the concept of ‘immigration country’ will be analyzed. How has Germany, which is different from classical immigration countries in terms of state-building , become a “*de facto* immigration country” in the course of history? An answer to this question will be sought as well.

Major and Minor Questions

The major question of this thesis is whether Germany has become an immigration country or not. Since this new bill has yet to become legally effective this question is still of great importance.

This study will also try to answer a number of minor questions. It will try to present a theoretical background for the concept of the immigration country, focusing on what the concept of “immigration country” refers to in general. In addition, by taking into account the characteristics of the concept of the immigration country, Germany’s own experience of immigration will be explored with a historical view. Within this context, the significance and meaning of Germany’s new immigration bill will be analyzed, at the same time, by presenting its political implications on the country’s social, political and economic dynamics. The positions of the German political parties will also be explored.

All of the above questions should be analysed gradually in order to find an answer to the essential question of this study, which is “ Is Germany becoming an immigration country? What are the impacts of the new immigration law draft regarding this issue?”

Structure of the Study

This study is composed of three main chapters. The second chapter is a theoretical introduction to the “immigration country” concept where the evolution of immigration studies and main immigration theories are explained. It would be difficult to grasp the main point of the ongoing debate without setting a theoretical background because becoming an “immigration country” requires further political

changes and new openings. These changes and the context of the immigration country concept will form the basis of the first chapter. Changes that took place in ‘immigration’ paradigms prove that the issue of immigration was examined from different perspectives and interpreted differently during the time. Different immigration theories will be explained briefly besides, the examples given from classical immigration countries will assist to demonstrate the practical repercussions of the “immigration country” concept.

In the third chapter, the history of immigration in Germany is explained. While doing this, significant events and developments in this process will be described in order to further clarify Germany’s situation. Also the issues concerning the new immigration law will constitute a part of the second chapter. The new immigration law is important also because the commission that prepared this draft and the German Chancellor expressed their questions and concerns on whether Germany was an “immigration country”. This points out to a benchmark in the history of immigration in Germany because these views were never this clearly expressed by official authorities before. The new law has not come to force yet but this does not diminish the importance of the discussions it raised because the new law is not an ordinary law, it will change the political conceptualizations when it becomes valid. In this study, special emphasis will be put on the political debates ignited by the new law and its results affecting the immigration country concept will be evaluated.

The fourth chapter will seek an answer to the question whether Germany is an immigration country or not by considering the conclusions derived from the theoretical framework and considering the characteristics of the process Germany went through. The possible results that can be generated from this answer will be discussed as well. The prediction and the projection of this study will be answering the question “what should be done concerning the immigration policies in Germany, when it is considered an immigration country?” Moreover, in the third chapter an

overall assessment of the first and second chapters and projection for the possibilities ahead will be made.

CHAPTER II.

THEORETICAL FRAMEWORK AND CONCEPT OF IMMIGRATION COUNTRY

2.1. Theoretical approaches to ‘migration’

Migration studies, which are interdisciplinary studies, have been the subject of economists, sociologists, political scientists, geographers and demographers. Economists study the economic causes of migration, economic advantages and disadvantages of international migration, and the effect of migration on labour markets. Geographers and demographers define migration as people’s movements between places and they are concerned with how these movements change societies’, regions’ and cities’ settlements. Historians study different types of migration and the migration process throughout time. Political scientists study migration policies following political developments and they are mostly concerned with the political results of the migration issues. The political participation of immigrants and the political rights of minorities are their main subjects. Lastly, in the field of educational sciences, migration studies are focused on the education of immigrant children and the search for education systems that addresses all children from different cultures.

Although it is a challenging task trying to describe the term “migration” which is defined diversely by different disciplines, it can be beneficial to give these descriptions to cogitate on a combinatory migration theory.

According to the studies of Masseys, (1998) Hoffman-Nowotny defined migration as simple as ‘people changing places’. According to Heberle, migration is ‘changing the domicile voluntarily or by force for the short or long term’. Also, Everett S. Lee describes migration as ‘the changing of domicile temporarily or permanently’. Elias and Scotson bring in a different dimension defining the migration as the ‘change in the feeling of belonging to a group or shifting between different groups because of changing places’. Albrecht portrays migration as the ‘change in the social and psychological condition caused by temporary or long-term place shifts’. Schrader takes migration as ‘leaving the current domicile and moving into a new domicile at a certain distance’. Wagner names ‘any kind of domicile change’ as migration while Ronzani and Eisenstandt define it as ‘a person’s transfer from one social system to another’. (Massey, 1988: 390)

All of these different definitions have a commonality in defining migration as a person or a group shifting places. What are the motivations causing these movements? This question is the most debated question that different disciplines ask while forming their own migration theories. Another concern regarding the effects of migration is formulated in the second phase by the question: What are the effects of migration on immigrant and migration-receiving countries? The following (third) phase is the policy formulations in considering the causes and effects of migration to solve the problems caused by migration and expound how different social institutions (mainly state institutions involved in policy-making concerning migration) could help?

Before heading into theories inquiring into the causes and effects of migration, one should briefly state that migration is generally evaluated under four different aspects:

- 1- Spatial Aspect
 - a. Domestic migration
 - b. External/ international migration

- 2- Time Aspect
 - a. Short-term migration
 - b. Long-term migration

- 3- Cause Aspect
 - a. Voluntary immigration (Labour migration)
 - b. Forced migration (Refugees)

- 4- Extent Aspect
 - a. Individual migration
 - b. Group migration
 - c. Mass migration

Since the main focus of this study is migration to Germany, only external, labour, long-term and individual migration aspects will be handled throughout the thesis. Also while examining different migration theories this criterion will be used and theories explaining the domestic migration, for example, will be excluded.

In classical migration theories the causes of migration are listed as poverty, unemployment, low wages, negative future expectations, and difference in wages between countries. The main motivation behind migration is seen as search for either a job or a higher paying job. Everett S. Lee (1966) was the first to combine these causes under the name of “push and pull factors” in his book “A Theory of Migration” which became one of the most important classical migration theories. Since “push and pull factors” constitute a cornerstone in classical migration theory, it will be handled here first in order to understand migration in a general way.

2.1.1. Push and Pull Factors' Approaches

- 1- Push factors: Unemployment and lack of perspective caused by unemployment, low fees.
- 2- Pull factors: The need for labour, high fees, the level of development in social justice (Lee, 1966)

Overview

1- The economic and social conditions and expectations of the migration country: The first step to start migration is the declaration of the migration country. How many immigrants it would admit, for what objectives and under which conditions it would admit them. The migration country's legal arrangements and acts are the most important factors that determine the migration. (Lee, 1966) It is a fact that it is not possible to control the migration in an efficient way. The situation in Germany in 1960's is a good example for this argument. The migration in 1960s was planned to be a temporary one but most of the immigrants did not return to their home countries, on the contrary they brought more immigrants through family reunifications. Germany always used to define immigrants as 'guest workers'. This delayed a solution to the problems of adaptation and integration.

2- The economic and social situation and the development perspectives of the immigrant country: The expectations of the immigrants for their home country determine their future perspectives and their attitudes. (Lee, 1966: 48). Immigrants, especially early Turkish immigrants, came to Germany for a limited time to save money, and planned to return to Turkey. Because of this they didn't learn the language, they didn't bring their families and they lived in cheap houses. But since 1970's they decided to stay in Germany because of Turkey's failures in economic development. While most of the Greek and Italian immigrants that came at the same

time with the Turks were going back to their countries. Because their countries could offer them a promising future. (OECD, 1990: 28)

3- Immigrants' qualifications: This title refers to education, professional skills, the level of acquaintance with the language and the culture. The main aim of the 1960s migration in Germany was to meet the labour demands. The required criteria was health, endurance to heavy working conditions, and experience in the field. However, the educational levels and language skills of the immigrants were not among the criterium. However educational level of immigrants is the main determinant for their adaptation and integration. Research shows that immigrants who know the language of the migration country can adapt themselves in social and economic life faster than the others (Yano, 1998: 75). In addition, cultural proximity to the migration country provides faster integration into the society.

4- The harmony between the future perspectives of the immigrants and the migration country: Migration is a process and there can be exogenous other factors affecting this process. An example is the Oil Crisis in 1973 that had important repercussions on the German economy. After this crisis many factories in Germany started to work in circumstances of under capacity and many businesses were shut down. This crisis left most immigrants unemployed. The German government encouraged them to go back to their countries in order to solve this problem discretionally. This policy of Germany obscured the settlement plans of the immigrants and lack of harmony among the aims of the parties aggravated the integration problems.

5- The legal framework of the migration country: Social approval of the migration issues cannot be independent from the political and legal definitions. Defining ourself as an immigration country yields a policy accepting the social and political rights of immigrants, however, defining the immigrants as "guest workers" and defining their rights in that context implies another model. Like all groups that

do not constitute a part of the social sphere and that are not represented politically, immigrants also tried to protect themselves by establishing closed communities in their own neighbourhoods.

6- The difference between the economic development levels of the immigrant country and the migration country: Rationally acting individuals would choose to live in the country that offers better conditions (health services, social state, unemployment insurance etc.). This is a factor, which turns the migration from temporary to a permanent status. Assistance schemes to underdeveloped or undeveloped countries gained importance as a policy for the prevention of migration. If the welfare gap between countries is likely to grow then people will continue to immigrate from lesser developed to developed regions.

7- The geographical distance between the two countries: The cost of migration is also argued to be among the reasons which encourage or discourage the migration. Migration covering the manpower demand comes from the nearby countries first. However some other factors are more important in some migration movements like interstate relations and former colonial relations can be more important than location factors in some cases.

8- Cultural, linguistic, and religious differences and their consequences: Cultural proximity is another crucial factor determining the relations between the migration country and the immigrants. The claim that Russian Germans were more successful in adapting to German society than the ones coming from Muslim countries is indicative of such a fact (Bundesminister des Innern, 1995).

9- Destination country's migration policy: Migration policies and laws regulating the migration and immigrants' status is an important factor for the determination of push or pull factors.

Theories based on “push and pull factors are known as the first theoretical works in the migration literature, and the examples that can be given from today’s Germany proves that it is still relevant. Yet at the same time this kind of an approach to migration is not enough to understand the contemporary migration trends. For example, according to this theory Germany would have taken more migration from Bangladesh than it had taken from Turkey. Another thing that can not be explained by this theory is why migration to Germany from Turkey started in the 1960s. The income difference between these countries was also large in previous years. Reasons like income difference and poverty alone can not answer these questions. The changing characteristics of migration during the 1970s, especially with the mass migration waves to the USA and Europe, forced theoreticians to rethink migration. These efforts brought a paradigm shift in the 1980s. The classical way of explaining migration with “push and pull factors” was left aside after the 1980s. Zolberg portrays this paradigm shift as follows:

Despite many differences, attributable to different intellectual traditions and disciplinary backgrounds, the most stimulating newer approaches share a number of common features: 1) they are generally historical, not in the sense of dealing mostly with a more distant past, but rather than in paying appropriate attention to the changing specificities of time and space; 2) they are generally structural rather than individualistic, focusing on the social forces that constrain individual action, with special emphasis on the dynamics of capitalism and of the state; 3) they are generally globalist, in that they see national entities as social formation and interactive units within an encompassing international social field, permeable to determination by transnational and international economic and political processes; and 4) they are generally critical, sharing to some degree a commitment to social science as a process of demystification and rectification, and in particular are concerned with the consequences of international migrations for the countries of origin and destination, as well as the migrants themselves. (Zolberg, 1989: 403)

Now we are going to try to make a general account of the new approaches to migration in order to better elucidate the “immigration country” concept.

2.1.2. Neo-Classical Economic Approaches

Neo-classical migration theory stemmed from the work of economist Ernest George Ravenstein's study, "The Laws of Migration", in 1885. In his study Ravenstein examines domestic and external migration at the macro level and explains migration with the gap between the demand and supply for labour. According to him, the most important cause of migration is that in some countries labour supply is high but wages are low while in some countries demand for labour and wages are high.

Economists relate migration to the wage differences between countries. In a free market economy a commodity will be produced where it is cheapest. The process is as follows: In an economy as employment increases the demand for consumption increases and, to meet the new demand supply also increases production increases. This new stage needs more labour than the actual population can offer. In this model free movement of labour among localities where there is a demand is an assumption.

Economic crisis and increasing unemployment make foreign and local workers insecure. But since the free market conditions is not the norm foreign workers in reality are transformed into social variables instead of being economic variables.

According to this analysis, there should always be a migration movement from the poor countries to the rich countries. But if we look at real life we can observe that, the migration movements do not always work like that. The money required for the traveling expenses and to cover the living expenses at the start makes it hard to find labour coming from underdeveloped countries.

However, this macro model is based on the differences between wages and employment opportunities. The heavy work conditions in the migration country, the wage differences between the local and foreign workers, and the unequal social rights they have, could not prevent the migration because immigrants always compare the conditions in their home countries and the migration countries.

According to Michael P. Todaro (1980) besides wage differences, the decisions made by immigrants by comparing their earnings in their home countries and their possible earnings in the migration country also matter. Another scholar who also elaborated on this theory, George L. Borjas (1988), adds a new dimension to this and says that migration policies of the countries also matter and that tells why every country that has a labour deficit is not an immigration country and why all the people living in the same conditions with immigrants do not immigrate. For example, migration to Germany from Turkey started with an agreement between these countries, and when Germany declared that it was not immigration country and the immigrants were there temporarily, the course of migration changed. Borjas explains this with his own words as follows:

The pool of foreignerborn persons in any given host country is doubly self-selected: the pool of immigrants in the host country is composed of persons who found it profitable to leave the country of origin and who did not find it profitable to migrate anywhere else.(...) In this marketplace different countries “compete” for potential migrants. This competition exists because different host countries offer potential migrants, different sets of economic conditions (such as unemployment rates, income distributions, etc.), and different sets of migration policies (such as skill-based migration policies or policies based on the concept of family reunification). Potential migrants consider the benefits and costs associated with the economic and legal constraints, and sort themselves across the various host countries. The migration market, therefore, plays the important role of allocating labour across international boundaries. (Borjas, 1988: 95).

According to Borjas (1988: 22), the main cause of migration is also the wage differences but there are some other factors affecting the number of immigrants such as financial conditions, age, occupation, family links in the immigration country, migration policies of the migration country and the unemployment rate.

Here, rather than showing which theory better explains the actual conditions, we are trying to show how the perception of migration has changed with further migration flows in time and how the course of migration studies has changed parallel to the course of migration. The 1960s' labour migration was explained by economists using the labour market variable but when during the 1970s the characteristics of migration started to change (migration was considered to be a short-term displacement but then turned out to be a long-term movement), new debates started within migration theory. In the 2000's, conditions of the labour market and wage differences remain as the main trigger of migration but new dimensions are added to this picture drawn by macroeconomists.

2.1.3. Segmented Labour Market Theory

One of the representatives of this theory, economist Michael J. Piore (1979) tries to explain migration from the supply perspective. According to him, in the labour markets of the highly industrialised states where serial production is made, there is a primary and a secondary labour market. In the secondary labour market there are bad jobs which have low social prestige, bad working conditions, instabilities and low wages. Since local workers do not want to work under these conditions there is a need for labour in this secondary market, and immigrants cover this need. Immigrants enter into the labour markets of migration countries by accepting these jobs with a bad social image attached to them. Immigrants accept these jobs because they generally plan to work temporarily in these jobs and their main motivation is earning money.

From this point of view, one can generate the idea that in industrialised countries the labour market is divided into two segments as the centre and the periphery. In the peripheral labour markets the working conditions are bad and there is no chance for promotion. Thus, attracting local workers to this secondary market is difficult. Even if conditions in the existing peripheral labour markets are improved, there will always be a lower labour market. Piore explains the emergence of migration as follows:

Recruitment is the key to the seeming paradoxes of migration processes; it explains why one region develops significant out-migration, and another, essentially comparable in terms of income, transportation costs, culture, and labour-force characteristics, never does so; how a low-income area can exist for years as an isolated, self-contained economy despite its relative proximity to an industrialised area and then suddenly begin to generate significant emigration flows. (Piore, 1979: 35)

Piore (1979) explains the social and psychological reasons of immigrants' accepting jobs in the secondary labour market as follows: Immigrants do not establish links between their jobs and their identities and social status. A job is only an instrument for them. A job is an instrument to reach a goal like going back to their home countries and having some capital in hand when they go back.

The temporary character of the migration flow appears to create a sharp distinction between work, on the one hand, and the social identity of the worker, on the other. The individual's social identity is located in the place of origin, the home community. The migration to the industrial community and the work performed there is purely instrumental: a means to gather income, income that can be taken back to his or her community and used to fulfill or enhance his or her role within that social structure. The perspective of the migrant is initially asocial: It is purely a means to an end. In this sense, the migrant is initially a true economic man, probably the closest thing in real life to the *homo economicus* of economic theory. (Piore, 1979: 54)

Since immigrants do not feel like that they have a social identity in the migration country, they do not have any difficulties in accepting the jobs they would not normally accept in their home countries. Immigrants exercise their social roles in their home country not in the migration country.

Yet this situation began to change when immigrants started to settle down in the migration countries and establish their own communities. Having long-term prospects in the migration country increased the social needs and expectations of the immigrants. Immigrants no longer accept working under the bad conditions they used to accept when they first arrived at the migration country and they demand for better conditions and more secure working places. The division between the primary and the secondary labour markets is disappearing and conflict start over the division of labour between the local workers and immigrants.

The most important contribution of this theory is its acceptance of the existence of secondary peripheral labour markets in industrialised countries. This theory's explaining the formation of migration with the existence of primary and secondary labour markets particularly provided tangible explanations for the labour migration of 1970's. For the German case this perspective was irrelevant in 1960's because during that period Germany was mainly looking for factory workers, and most of the immigrants had professional backgrounds. Particularly after the crisis, in the mid 1970s, this theory became more relevant because new immigrants started to work under worse conditions and in worse jobs. This theory is successful in explaining the migration to the USA from Mexico. In addition, this theory's explanation of how conflicts start is important. According to this theory, conflicts start when immigrants settle down permanently in the migration country. For example in the German case the "foreigner problem" had started in 1975-80 when immigrant workers had started to settle down and bring their families to Germany.

2.1.4. Micro-Level Theory

In this theory it is emphasized that in order to understand migration better, it should be looked at more specific and personal causes instead of looking at general reasons (Faist, 1985: 53). This model examines the reasons for migration at the individual level. Why does a person take a decision to immigrate to country B from country A, while another person who shares the same conditions with him doesn't take the same decision? Another question can be formulated as to why he decides to go to country B and not country C which offers the same standard of living. According to this point of view, the decision to immigrate is a decision taken personally, and in order to understand this decision one should consider the personal reasons.

For migration to be organised first of all there should be sufficient information about the migration country and the conditions it offers. The Turks in Germany became a source of information for the ones in Turkey. Various cultural, religious, ethnic social networks exist to compensate the immigrants situation in host countries. Existence of contact persons and native ghetto's can help immigrants in their first months in the migration country and facilitates the migration process for them. Relatives and acquaintances that immigrated there before and knowing the language of the migration country are used to reach information and accommodation.

The communities formed by the immigrants coming from the same nation are helpful for the newcomers and protect them from social isolation. According to a research made in Holland, 63% of the new Turkish immigrants and 59% of the Moroccans say that they got help from these "ethnic networks" (Porscher, 1996: 27).

Another important thing is the qualifications and the skills of the immigrant. If there is a demand for his qualifications and skills in the migration country, then it is easier to decide to immigrate and to form a future perspective in that country. If one immigrates to earn more money then the course of the migration process changes according to his qualifications.

Personal expectations are also important for the formation of migration. If one immigrates to a country for a certain period of time and wants to return to his home country after saving some money, then his expectations are shaped on this basis. If s/he comes to the migration country in order to live there for a long time, he also brings his family, and extends his life in other spheres of life (education, social security, retirement etc.), and his expectations are shaped on this basis (Bommes, 1996: 72).

Then, according to the 'micro' approach personal conditions of the immigrants and their relationship networks are as important as macroeconomic reasons in the formation of migration. Also, this theory can explain why there is more migration to Germany from specific regions and even from some specific villages. Qualifications of the immigrants and their information sources can be an important basis for migration. This theory forms a starting point for the "transmigrants theory" which will be explained later.

2.1.5. World-Systems Theory and Neo-Marxism

The migration debate, like many other socio-economic debates is also influenced by 'world-systems theory' and 'neo-Marxism'. According to the world-systems theory, migration is a subsystem of the world market. Migration is defined as a "labour supply system" (Sassen, 1988) for the labour market within this theory. The capitalist economy's motivation for decreasing the cost of labour and increasing

profit stimulates migration. Workers that immigrate from the countries where there is unemployment and low wages to the countries where there is a demand for labour help lower the wages there (Sassen, 1988: 27).

Since the 18th century migration movements, which took place either voluntarily, by force or by colonization, have been an important part of the capitalist world system (Sassen, 1988: 33). According to this theory, formation of migration does not solely depend on the wage differences between countries:

Absolute gaps of economic advantage meant nothing to the population of outlying areas, for it neither could grasp their significance nor find the means of transportation to take advantage of them (...) Thus, active recruitment of migrant labour had to be conducted in many expanding economies not because objective opportunities did not exist, but because insufficient linkages existed to make available populations aware of economic opportunities or to make their physical displacement a straightforward matter. (Portes/Walton, 1981: 46-48).

Another point is the linkage between the development and advance of capitalism and migration. With the development of the capitalist system some regions became peripheries of the centre. In these peripheries there is excess labour because traditional production systems were abandoned but could not be replaced by a real capitalist system. Thus, labour that was used in the previous traditional systems becomes excessive and migrates to developed capitalist countries. Hence, migration is not from the poorest to the richest; instead it is from the developing to the developed (Portes/Walton, 1981: 31).

According to this theory, the state's role is also important. The state plays a significant role whether directly or indirectly in channeling the migration. Political decisions or collapse of state systems can cause obligatory migration. Also some countries, such as Egypt, Sri Lanka, and Indonesia, can follow policies that encourage migration actively so that they can diminish unemployment and benefit

from the money that immigrants will be sending to their home countries in the future (Zolberg, 1989: 405).

Moreover the existence of the 'nation-state' brings in a new dimension to the migration debate. Immigrants do not only change places physically but also face some legal and social changes because of the nation-state. Issues of identity, belonging to a community, and exclusion of immigrants are consequences of the nation-state systems. Nation-state understanding plays a non-negligible role in the shaping of migration, and most of the problems listed above are not coincidence or unwanted side effects but caused by the very nature of the system. Accordingly, the nation-state and its borders are not barriers for migration but on the contrary, the ideological and political definitions of the state institutions exclude immigrants from these institutions, which is why such understanding of nation state is considered to be an obstacle against the political and judicial rights of the immigrants:

In fact, national boundaries do not act as barriers so much as mechanisms reproducing the system through the international division of labour. (...) While the generalisation of the labour market emerging from the consolidation of the world capitalist economy creates the conditions for international migrations as a world-level labour-supply system, the strengthening of the nation-state creates the conditions for immigrant labour is not just any labour. It is a component in the labour supply with a distinct role in the labour process characterised by: 1) the institutional differentiation of the processes of labour-force reproduction and maintenance; and 2) a particular form of powerlessness, associated with formal or attributed foreign status, that meets the requirements of types of work organisation based on direct rather than structural control over the workforce. (Sassen 1988: 36)

When globalisation started generally the following comments were made: With globalisation human labour became mobile like capital, and also the developments in the information and communication systems facilitated the formation of migration. According to the world-systems theory that defines migration as a subsystem of the world-system, the relation between globalisation and

migration follows this process: First, globalisation accelerates the process of industrialisation and increases sectoral unemployment. These unemployed people become the possible immigrants that will immigrate to the industrialised regions in the country or abroad. The more people immigrate or want to immigrate, the cheaper labour becomes in the developed regions countries and in big cities (Sassen, 1988: 53).

This theory argues that it is not possible to understand migration without looking at the nation-state and its implications. So far, migration had been explained as a movement between two states and the costs and the benefits of the immigrant or migration countries have been debated, but with this approach it is argued that the nation-state acts as a mechanism that regulates migration.

Another important contribution of this perspective is its evaluation of migration in integrity with a greater world system and showing what migration serves for. It is critical about defining migration as an exceptional case or as something on its own and it tries to place migration in a larger context, thus it disregards the socio-psychological and neo-classical approaches to the question.

2.1.6. 'Transmigrants' Approach

New developments in the migration theory after the 1990s have been named by this concept. Concepts such as "global population" (Smith 1995:251), "transmigrants" (Glick Schiller, 1997: 121), "transnational workers" (Hinojosa Ojeda, 1998: 4), "transnational communities" (Kearney, 1995: 231), "global nations" (Smith, 1997: 199) and "deterritorialized nation-state" (Glick Schiller, 1997: 124) are concepts that were created during the 1990s. The point emphasised by these concepts and by this theory is that migration and immigrants can not be understood within the borders of the nation-state, especially when the legal and the political rights of the

immigrants are at stake.

Before explaining these concepts, one should explain the main assumption behind this theory. The most important input is the mobilisation of commodities, capital and human along with globalisation. Trouble-free flow of the international capital and independent and autonomous transnational corporations acting freely everywhere in the world also facilitated the mobilisation of people (Kearney: 1995).

Another input is the developments in information, telecommunication and transportation, and the fast and changeable information sources and migration flows enabled by these developments. At the same time, these developments helped the immigrants strengthen their links with their home countries and establish economic and social networks.

Another thing is that since many countries in Europe (especially Germany) and other migration countries need qualified labour, and encouraged a type of migration that is called “brain drain”, there is a different type of migration whose characteristics are totally different than the ones in the 1960s. A phenomenon which is difficult to explain by classical migration theories.

Moreover, this theory is critical about the assumption that migrating is an economic decision made by the immigrants themselves. Migration is not a personal or group decision; it is caused by general political and economic trends and their implications. Thus, both migration and immigrant countries are not merely places to immigrate to or immigrate from but are the most efficacious actors in the migration process (Fawcett, 1989: 673).

This theory also says that migration is not only an economic event but also a social event. This fact embodies itself in the immigrants' strong relationships with their families and relatives, which may be called migration networks. Here, network refers to a group of people who are tied to each other with any kind of relation (such as being relatives, acquaintances). The decision for migration is taken within the family in the first place and family relations affect the immigrant during the whole migration process (Boyd, 1989: 648). After the migration of the first person, other people in the family or group consider immigrating depending on the experiences of the first immigrant. These networks play important roles providing easier travelling opportunities, shelter, and necessary information for the new immigrants.

Networks connect migrants and non-migrants across time and space. Once begun, migration flows often become self-sustaining, reflecting the establishment of networks of information, assistance and relatives in the sending area. These networks link populations in origin and receiving countries and ensure that movements are not necessarily limited in time, unidirectional or permanent. (Boyd, 1989: 641)

Networks help new immigrants integrate into the migration country and provide a very important information source for other newcomers. Research on migration proved that immigrants are informed about the migration country through these networks first and reach necessary sources with their help (Haug, 1997: 262).

Since immigrants keep their ties with their home countries and try to maintain their social identities, these networks become stronger, not only in the migration country but in the immigrant country as well. Money sent by immigrants to their home countries affect people in the immigrant countries and constitutes a greater pull factor than the pull factors defined in the classical theory (Massey, 1987). This also shows the cumulative effects of migration. This also explains why in some businesses, immigrants from the same country are grouped. Mostly, immigrants from the same regions and same villages work in the same business and this is called

“ethnic business” in the literature. An example from Germany for this is that most florists in Germany are Pakistanis.

Most of the ‘ethnic’ businesses meet the cultural needs of the immigrants, such as certain eating habits. Italian pizzerias or “Turkish bakkals” are examples from Germany. Immigrants bring required workers and goods from their home countries and thus create a circulation of goods and people moving between the two countries and the two cultures (Haug, 1997).

All of these lead us to a second concept, ‘transnational community’, which is again a very important concept for this theory. Transnational community refers to a community going beyond the nation-state and the national community, and also including some interborders and transborder relations. Inspired from multinational companies that were defined as “transnational companies” and referring to the relations established between the home countries and the migration countries, the term “transnational communities” was coined. Indeed, immigrants who exercise economic and social relations both in the migration countries and in their home countries by the investments they make constitute themselves as binational or transnational (Smith, 1995). Transnational communities can be defined as the relations that tie the communities two countries and the relations that are exercised in both countries. Immigrants that establish these relations and that live within these communities are called transmigrants (Glick Schiller, 1992: 132).

Transmigrants according to Schiller, like transnational communities, refer to the immigrants that make themselves present in both their home countries and in the migration country, and between them socially. Their presence in both of the countries and their social links ties the two countries to each other and also creates a new kind of relationship between them which is independent from their borders.

Transmigrants are immigrants whose daily lives depend on multiple and constant interconnections across international borders and whose public identities are configured in relationship to more than one nation-state (...) They are not sojourners because they settle and become incorporated in the economy and political institutions, localities, and patterns of daily life in the country in which they reside. However, at the very same time, they are engaged elsewhere in the sense that they maintain connections, build institutions, conduct transactions, and influence local and national events in the countries from which they emigrated. (Schiller, 1997: 121)

Until now, migration was understood as an economic movement between two countries taking its dynamic from the pull and push factors. But today, among the immigrants there is a second and third generation who are binational and who have multiple identities, and this is not something problematic for them. But problems emerge when immigrants and their identities are trying to be defined within the borders of the nation-state. Until now, definitions concerning the immigrants had been depended on closed societies and national communities (Chaney, 1988: 209).

Thus, identities and names attributed to the immigrants in Germany have changed many times so far but none of them lasted because none of them reflected the reality adequately. In turn this reality itself has changed over time, along with immigrants status and their prospects in Germany. Descriptions that have started with guest worker (*Gastarbeiter*) have been replaced by foreigner (*Ausländer*). Later on, the term minority (*Minderheiten*) was used. Today's popular term among politicians, foreign citizens (*Ausländische Mitbürger*) is being replaced by the term immigrants (*Immigranten*). Another definition rarely used is German Turks (*Deutsche Türken*).

Founders and promoters of this theory mainly worked on the USA and said that because of its characteristics as immigration country the term "transmigrants" is more relevant. In Germany these kinds of studies were not conducted because

Germany does not define itself as an immigration country and does not see immigrants in this framework. Moreover, Germany's becoming an immigration country process followed a different path than that of USA's. In Germany migration is exercised *de facto* while in the USA, it is a state policy and the USA defined itself as an immigration country from the very beginning.

Social science terms such as state, ethnic, nation, society, and culture are not sufficient to explain the problematic level that migration and immigrant issues reached today. The latest economic developments, globalisation, internationalised information, production and the media should take its place in the migration theories, and the effects of these developments on immigrants should be studied. "Transnationalism" comes close to this. Immigrants that are considered by this theory are in fact ordinary workers but their lives are in complexity. They face nationalist, racist attitudes in their everyday life and they have to find a way to respond to these kinds of attitudes. Thus, it should be clarified that migration does not happen only for earning more money but it is complex in itself and has more complex implications. Immigrants facing problems also redefine themselves and their identities and invite politicians to rethink the nation-state, society (Glick Schiller, 1992: 101).

Here is a striking example by Glick Schiller (1997) in order to explain the "transmigrant": The same person can be an American citizen and attend to a meeting organised by New York municipality and next week s/he can go to his/her home town and talk about the problems of his country as a mindful nationalist. Again this same person can take part in a campaign against racism organised by the immigrants in the USA and in the evening s/he can go to a national night organised by the people of his/her race and enjoy him/herself by dancing traditionally. The same person can oath for the solidarity and unity of workers in a trade-union meeting and in the same day s/he can send money to his/her hometown for buying land or making investments. These identities seem contradictory with each other, but immigrants do not have problems with themselves while exercising these different identities. But, of

course, these acts can not be explained by classical definitions of state, society, identity and class. Transmigrants perspective suggests for current or possible migration countries that the question of who we are must be redefined (Haug/Pichler, 1997: 261). The answer to be given to the question “who are we?” should include immigrants, in other words people living in that country carrying different passports. This will end the discrimination between people who live together and also express the cohabitation of people carrying different passports, speaking different languages, coming from different races. Whether states include immigrants in the definition of “we” or not, in real life immigrants are one of “we”. States should scrutinise themselves objectively in terms of being an immigration country or not.

The aim for looking at the migration theories was to see the point the migration debate has reached so far. An historical overview of these theories shows us how to understand migration and as well on what issues there had been the mostly debated. With the augmenting labour migration in the 1960s, theoretical migration studies defined migration as an economic act and it was mostly economists working on migration. Also, migration was seen as an act between two countries and its effects on both countries were debated. Macro and micro theories where migration was examined in terms of push and pull factors can be examples of this. During the 1970's when labour migration slowed down but immigrants -in Germany for example- started to settle down and bring their families and did not go back to their home countries as was planned, it was accepted that migration was not only an economic phenomena but also had cultural and social dimensions. Migration became a subject for sociology, later on social pedagogy and even educational sciences. During the 1980s when migration became problematic for countries and integration and adaptation problems arose, migration became a subject also for the field of political science particularly for the questions of representations. Furthermore, today's migration going beyond the borders of the nation-state opens up a debate for the 'transmigration' and “migration country” concept. Nation-state's alternative in the face of the migration issues then is to define itself as “migration state/country”.

The theoretical approaches above tell us that the “immigration country” concept claims itself; in the rest of this study this concept will be explained. Since my main question is whether Germany is or will be an immigration country or not, while explaining the concept of “migration country” will provide a necessary basis for us. My explanations will be limited in the political sphere, that is I will emphasize what an immigration country means politically, bearing in mind that this has various implications in different spheres, as such a keyword for migration and immigrants will be “the integration”.

Furthermore in the second chapter, this basis will help us in arguing the developments in Germany needs for migration which has been debated with the new migration law and where Germany stands actually in terms of being an immigration country.

2.2. The Concept of “Immigration Country”

“The nation state is becoming too small for the big problems of life and too big for the small problems of life.”

Daniel Bell (Massey, 1988: 400)

One of the most important tools to analyse the “immigration country” concept should be considered as ‘integration’. The question of how Germany’s need for immigrants will be met, is an important question especially in terms of defining itself as an immigration country but at the same time the question of how the current and possible immigrants will integrate into society is also important. Since the first question will be discussed in the second chapter under the title of “the new immigration law” in details, in this section I will mainly focus on the latter question - how will the immigrants live in Germany, with what rights and under which political names? - Because one of the prerequisites to be an immigration country is the need for immigrants due to various reasons (Schulte, 2002: 49), integration starts with

immigration and shapes and affects immigration and its consequences through all political, social, and cultural processes. Integration itself is a long process that starts with the immigrants' arrival in the immigration country and continues with the immigrants' getting used to the economic and social conditions of the society and finding ways to express themselves socially and culturally (Schulte, 2002).

Since we will try to set up some political criteria in order to define the immigration country in this section, the question of integration will be the main field of argument. Necessary tools to set the definitions will be democracy, equality, and liberty in the most general sense.

Policies that regulate integration become the most important tools that regulate the social relations, resolve the conflicts, and problems, help to make decisions and laws that constitute the legal framework (Bobbio, 1988: 41). Thus, organising the integration process is one of the most important responsibilities of politics. Politics' main focus is how to organise the cohabitation of immigrants and the local people, and not if it is appropriate to live together with the immigrants or not. How to organise the cohabitation process embodies the immigration policies of that country.

If integration policies will be discussed in a different framework than the nation-state's, then what should be the criterion for this discussion? Schulte (2002) sets this criterion as "democracy". Schulte's specifying democracy as the main principle and the general framework will also be my framework in this study, with the analysis of general principles like human rights, rule of law, liberty and equality. Integration and immigration policies can be assessed within the framework of these general principles (Bobbio, 1988: 28). Another contribution of democracy's being a general/universal criterion is that the theory of democracy has both theoretical background and practical implications. Democracy criterion as both an ideal and a

project will also be useful to see to what extent democracy is applied in practice and how it can be improved (Bauböck, 1994).

Yet one should bear in mind that while using democracy as a general criterion, the political culture, history of the immigration country and how power relations work in that country should also be taken into consideration. Because of this fact, after making an account for general principles I will further clarify the subject for the German case, so that I can discuss the validity of these principles for Germany.

2.2.1. Immigration Country and Integration Politics

Instead of discussing the democracy as an abstract concept here, I will try to deal with the meaning of its main principles and try to identify some criteria meaningful for the immigration issues. Bobbio discusses the peculiarity of immigration countries, their immigration, integration policies and citizenship laws under the following titles:

- 1- The rule of law
- 2- Political rights and participation
- 3- Social state and social rights
- 4- Cultural freedom
- 5- Anti - discrimination policy (Bobbio, 1988)

Another study trying to set up criteria for immigration country is made by Hans Mahnig. His criteria are similar and can be listed under following titles:

- 1- Policies providing legal equality
- 2- Policies fighting against social inequality

- 3- Policies establishing dialogue and links between communities
- 4- Policies against humiliation and discrimination
- 5- Policies opening the state institutions to immigrants (Mahnig, 2001)

These criteria resemble Bobbio's criteria. The "rule of law" comply with "legal equality" title, and social state with the "policies fighting against social inequality" of Mahnig. His stance is close to those of Bobbio's and Schulte's. I will try to use all of these three perspectives.

The Principle of Rule of Law and the Policy of Providing Legal Equality

This subject refers to the necessary legal provisions to be taken in order to assure the social participation of the immigrants. The differences in the legal status between the immigrants and citizens are barriers preventing full integration.

The importance of integration policies for the concept of immigration country is with which legal status foreigners are defined. In Germany and in some other European countries, immigrants are defined as "foreigner" (Auslander) legally. Immigrants who live in Germany are subject to different laws than German citizens because they are in foreigner status. (Schulte, 2002: 64)

Among the criteria of immigration country, the basic condition is that the legal inequalities between the immigrants and the citizens should be abolished. The following measures should be taken in order to provide this:

- The abolishment or rearrangement of foreigner laws and other laws causing inequalities
- Rearrangement of residence rights and legal recognition of

postnational identities

- Rearrangement of citizenship laws so that immigrants can become citizens easily
- Redefining of rights and freedoms so that they can be understood as human rights that are applicable to everybody living in that country or redefining the “citizen” so that it can include all of the people living in that country (Schulte, 2002).

The principle of the rule of law draws the limits of political power by laws so that the sovereignty of the people is guaranteed by laws. The reflections of the principles such as equality and liberty, which are the basics of the rule of law are important while defining the integration policies (Fijalkowski, 2000: 373); because a country which is defined as an immigration country should be able to provide (equality and liberty in terms of the rule of law) to all people living within its borders.

Foreigners living in Germany are equal to German citizens in terms of some constitutional rights, in terms of basic human rights yet on the other hand they are subject to restrictive laws in some areas such as residence rights, family reunification rights, and some rights concerning the business organisation. The implications of these discriminations in today’s Germany are as follows:

Immigrants in foreign status get their residence and working permits as “*Gastarbeiter*”, thus immigrants’ residence rights are limited by the labour demand and immigrants who do not work or do not take part in the labour market are deprived of residency rights by laws. Particularly after the crisis in the 1970s, the state applied policies of sending immigrants back to their countries.

Foreigners law that was promulgated in 1965 established a benefit relation between the immigrants and the state instead of establishing a legal relation stemming from the rule of law. This ‘benefit’ relation is geared up to changes that can be caused by the developing political process (Dohse, 1981: 82). With the growth in the number of the permanent immigrants in the 1970s, the Foreigners’ Law was amended and permanent residency rights (*unbefristete Aufenthaltserlaubnis*) were given to immigrants in 1978. In the 1991 amendment of the same law while the conditions for the right of permanent residency were set, immigrants’ status as foreigners did not change. This foreigner status brings the following inequalities to the immigrants in Germany:

Difficulties in taking part in the labour market: The most significant barrier in front of the immigrants is that their working permits are given by the employment authorities looking at the validity of their residence permits (Fijalkowski, 1997: 382). Working permits for foreigners are arranged according to the requirements of the work. If there is not any German eligible for the position, EU citizens are employed in the first hand. If there is neither a German nor an EU citizen, then a foreigner is employed in the vacant position. This is the main criterion of the employment authorities (*Arbeitsamt*) while granting working permits.

Difficulties in family reunification: Right to family reunification is a universal human right protected by the international law. Immigrants living in foreigner status in Germany can not bring their children over 16 to Germany. This is an important example of the legal inequality between German citizens and immigrants.

Germany’s defining its immigrants as foreigners and these immigrants’ being subject to different laws is against the immigration country’s principle of “providing equal rights to all people living in the territory”. One of the necessary steps to be taken here is that Germany should redefine its immigrants with different identities

and their rights so that the existing laws and freedoms can be applicable to them too. Issues like immigrants taking part in the labour market or family reunification can be solved easily by recognising their multinational and cultural identities. There should be accepted different identities other than “ German” and “ foreigner” in an immigration country. Amending citizenship laws so that immigrants can become citizens easily, can help to bring an end to inequalities. Germany’s new citizenship law that became valid in the year 2000 is a first step taken in this way.

Schulte’s (2002) last principle that is listed above, that rights and freedoms should be redefined so that they can be understood as human rights applicable to everybody living in that country or redefining the “citizen” so that it can include all of the people living in that country, is the most important breaking point for defining the immigration country in terms of nation-state. A definition of “we”, defining who is included in the definition of “we” according to the laws is the basic point. Immigration policies enabling immigrants to become citizens easily will help people define a “we” independent from national constraints, and this will put an end to the legal exclusion of the immigrants who are living like the locals in the country.

Political Rights and Participation

The main principle of the democratic systems is that people participate directly or indirectly in the administration and each person is equal in front of the law when making political decisions. During the evolution of democracy, this principle first showed itself when people were given the “right to elect”. By time people who do not own lands, women and young gained this right and this principle came to the point it stands (Bobbio, 1988: 15).

An implication of this principle on the immigration debate is whether immigrants have rights to elect and to be elected. One of the tenets of integrating into

the society that a person is living in is by political participation. Participation is considered to be the most vital part of adaptation and integration (Büttner/Meyer 2001).

Political rights are not only composed of the right to vote and to be elected. Also the right of association, freedom of thought and the freedom of the press are among political rights. These rights has to be regulated by the constitution and applicable to everybody. In Germany, immigrants who have these constitutional rights can associate in political, economic and cultural areas. The freedom of these associations end at the point when they threaten the security of Germany or they resort to violence (Bade, 1996: 99).

Except for certain rights that are protected by the constitution and the international law, immigrants in Germany do not have the right to vote in the local and the general elections, or to become a member of a political party. If they do not have the right to vote then they do not have a say in the political shaping of the country they are living in. Then, immigrants do not have the right to elect, change or affect the politicians that take decisions about the immigration and integration policies, which are vital policies for nobody else but for immigrants. Immigrants do not hold these rights in Germany because in the German Constitution it is explicitly stated that people's sovereignty refers to the sovereignty of the German (Bauböck, 1996: 75).

In order to ameliorate this situation for the right to vote, first of all, the right to vote in the local elections should be given to the immigrants with their immigrant identities. With the Maastricht Treaty signed in 1992 by the EU countries, EU citizens can vote in the local elections of the other EU countries (Schulte, 2002: 51). This situation creates another inequality in Germany between the immigrants coming from EU countries and non-EU countries. This right to vote that has been provided to the EU citizens should be provided to the other immigrants as well.

Another measure to be taken is the facilitation of becoming a citizen. By this way, immigrants that become German citizens can have the right to vote and to be elected. The new citizenship law that became valid in 2000 opens this way because in the new law the German citizenship is defined by the territory principle instead of the blood principle. As to explain these principles briefly:

Blood Principle (*Jus Sanguinis*): The principle, which defines the parameters of belonging to a nation, is of crucial importance in describing the national identity. The response to be given to the question “Who is a German?” explains how the state defines its citizens. The principle of blood and the principle of territory are important for the immigration and nation-state discussions. The German citizenship law is based on the blood principle and the new law changes this principle. Beneath this lies the notion of the nation-state. If the children who are born in Germany are accepted to German citizenship then this means that the blood principle is no longer valid. This principle was changed on paper easily but the consciousness about being a nation cannot be changed that easily in social life. It took Germany a long time to change its citizenship law (2000). The difference between “being German” and “being a German citizen” is the difference between being a nation-state and being a multicultural, multilingual state. The approval of Germany’s status as an “immigration country” is meaningful in such a context. It is a reflection of this fact that when “people from Turkey” who are German citizens define themselves as Turks and only if they are asked about their legal status they say that they are German citizens. (Spiegel, 2000)

The important part of the citizenship law in 2000, was the change in the citizenship principle. The children of immigrants who were born in Germany were defined as foreigners up to then “*Jus Sanguinis*” (*Blutrecht*). This principle has been changed to “*Jus Soli*” (*Bodenrecht*); the children who are born in Germany are German. The new law also facilitated the citizenship status of the children who came to Germany under the age of 14. Adult immigrants obtain the right to be a German citizen after 8 years of legal residence in Germany. Previously it was 15 years. An

immigrant who is married to a German citizen can get German citizenship after 3 years of legal residence in Germany, if the marriage has completed two years already. Dual citizenship is allowed in the new law contrary to the previous practice that conditioned the grant of German citizenship at the expense of the other citizenship(s). Immigrants who apply for citizenship status should fulfill some requirements such as oathing that they are for a liberal and democrat system and that they accept the German constitution; knowing German; living on his/her own; not getting any social aid or unemployment insurance. This change will allow the third generation of immigrants to become German citizens automatically (Opitz/Zwingenberger, 1999: 81).

This new law on the other hand does not change the Constitution's definition of "German" and thus it has discrepancies in itself. The issue of dual citizenship is obstructed fastidiously in this new law, and this is an important barrier in front of immigrants' becoming citizens and their integration processes. Obliging to leave the previous citizenship as a prerequisite in order to become a German citizen and in order to have equal rights, is in fact denying the binational, bilingual and bicultural nature of the immigrants. This is another way of denying being an immigration country. The dual citizenship of Germany-born children is accepted, yet still in the law it is obligatory for these children to make a choice between these two citizenship when they attain the age of twenty three (Bade, 2001: 118).

Since immigrants are not eligible to vote even in the local elections unless they are German citizens, they can not participate in political activities with their own identities. No other option is left for the immigrants rather than trying to affect the policies by working in immigrant associations or taking part in the civil society organizations such as labour unions.

Social state and social rights

Equal use of social rights is seen as a prerequisite in order to use the legal and political rights listed above (Bobbio, 1988). On the basis of the social state lies the understanding that providing the necessary opportunities and conditions to enjoy the rights (Weber, 1968: 88). This understanding represents freedom with the help of the 'social' state, instead of freedom against the state or freedom within the state. The social state principle provides real equality and freedom by assessing the conditions of different social sections and, making liberties and rights available for them (Stein, 1998: 35).

Social state understanding also defends that social developments can not be left in the hands of the market economy rules, but on the contrary, in order to establish an equal and a free social system, the state should play an active role to abolish the inequalities (Stein, 1998).

If we apply this same idea to the immigration debate, we can reach a conclusion that the principle of social equality is an ideal principle from which everybody can benefit; it does not matter if one is an immigrant or a native person. In most immigration countries, the state does not discriminate against the people from different nations and they extend the equality and liberty principle to the whole population. This is the basic tenet of the immigration country. Thus, how one country approaches to its immigrants concerning the social equality shows how close it gets to the ideal immigration country concept.

The duties of the social state are listed explicitly in the German Constitution and everybody, no matter his/her nationality, can benefit from these. Although immigrants in Germany are in foreign status, they share the same social and social security rights with the German workers. Also rights like children's aid and child

permission are applicable to everybody (Schulte, 2002: 31).

Despite these there are still inequalities in terms of social rights working against the immigrants in Germany. For example, students carrying foreign passports can not equally benefit from the educational facilities. Also immigrants work under worse conditions, a fact shown by the integration researches that have been done so far (Schulte, 2002). The unemployment rate among foreigners double the unemployment rate among Germans (Bade, 2001). Another field that social inequality can be seen is the residence and settlement field. People do not prefer renting their houses to the immigrants and this causes the formation of immigrant ghettos.

In Germany, everybody benefits from social rights such as social aid, unemployment aid, children's aid, but concerning other social rights from which only German citizens can benefit, there is not a persistent demand to gain these rights. In the view of the concept of the immigration country, the steps that should be taken are summarized as follows:

Since immigrants cannot benefit equally from the educational facilities, they are not well informed about their rights. Thus, information and counselling services for immigrants should be more active and these services should be easy to reach for everyone. However in today's Germany these counselling and information services are closing down because they cannot get enough support from the state.

Immigrants should be endowed with opportunities (such as education, language education, and information) so that they can compete equally with the others. Vocational and lingual education of immigrants should be given special care. This will make immigrants equal with the rest of the society, and they will not be discriminated against, though social prejudices and reactions can not be overcome

only by giving equal education to the immigrants.

Thus, “affirmative action”, which is an oft-cited term for immigration countries, is seen as a necessary movement (Schulte, 2002: 64). This term refers to giving priority to the social groups that have been discriminated before so that they can be represented according to their proportion in the population. This is a measure that is applied in some American institutions and takes us to the quota system (Schulte, 2000).

Another measure that can be taken in order to ameliorate the social situation of the immigrants is helping them take active parts in the decision-making mechanisms so that they can express themselves and their problems easily. For example in trade unions, if immigrants are represented in the talks then they will take the initiative to better their social status. Thus, it is suggested to immigrants that they should take active parts in their own or other existing associations.

Cultural rights and liberties

So far, we have talked about equalising the conditions for immigrants in different spheres of life while trying to define the immigration country concept. But, the concept of immigration country demands more than that. Equalising the conditions is not enough, providing a common ground for the cohabitation of people or groups from different cultures is also important. The concept both asks for equal rights and for measures that will enable immigrants to live with their cultural differences, different languages, religions and traditions freely. Concepts like multiculturalism and multi-ethnicity have been developed in order to explain this (Rex, 1998: 130).

Recognition of differences, accepting all the cultures equally instead of naming them as minority or majority cultures, is a vital contribution to the integration process of the immigrants because it allows them to express themselves freely through their own identities and to make them feel that they are seen as a part of the society they are living in. This at the same time entered into the literature as a means that facilitates cohabitation and prevents the future conflicts (Miksch, 1989: 44).

There are some objections to this perspective. It is argued that if too much freedom is given to the differences then this will only contribute to the strengthening of differences, because the differences will be taken as references for creating nonadaptive national values. These national values will become dominant in ethnic identity building and ethnic differences will be empowered (Quartisch, 1981: 422). At the same time it indicates another danger, that is, if immigrants define their identities only through their own cultures, and not share the common culture of the society, then this can cause formation of cultural ghettos. But these kinds of dangers are created only in the societies where one culture is imposed (Schulte, 2002).

Mutual tolerance is accepted as a prerequisite for the cohabitation of different cultures in the same society. But for the formation of this mutual tolerance, all of the cultures existing in the same political system should be recognised and respected. The political system's recognition of differences is the first step for social tolerance (Habermas, 1998). Political will is put in a difficult situation here, because it should not impose one culture and it should allow people and groups to choose their living styles so that different cultures are given the chance to exist equally, while trying to decide how it should allocate the financial resources to support these different cultures (Buser, 1998, 26). This allocative duty of the state makes the state an actor in determining different cultures' roles while on the other hand the same state should guarantee that people build their own cultural lives and maintain them freely. The state willy-nilly becomes a selective actor in responding to the cultural demands. In order to prevent this, the role of the state should be defined as follows; producing

policies that will eliminate the differences between the minority cultures and the majority culture, making the necessary investments in order to prevent possible conflicts between different cultures (Castles 1996, 270/Heintze, 1998, 23).

Habermas suggested the following way in order to materialize these goals: Immigration societies should demand the adaptation of the immigrants to the political culture, loyalty to the political culture and to the Constitution as the common spirit of cohabitation should be important during the whole integration process of immigrants but immigrants should not be forced to abandon their own cultures while doing this, they can both be loyal to the Constitution and to their own cultures. Otherwise it would not be adaptation but assimilation (Habermas, 1998, 172). In the light of these arguments, cultural rights and liberties can be listed as follows:

- 1- Existence of other cultures in the country should be recognised and verbalised.
- 2- Necessary measures should be taken to prevent the humiliation of minority cultures and to promote understanding and tolerance within the society.
- 3- Immigrants should be allowed to exercise their different cultures not only in their private spheres but also in the social sphere.

Now, if we look at real life to see the implications of these ideas and to see how cultural rights are exercised, the first thing to be observed is the problems stemming from bilingualism (Gogolin, 1994, 32). What should the policy of an immigration country concerning mother tongue and multilingualism be? This question can be answered as follows: Common language should be defined as the country's language, like German is defined as the common language in Germany. German is defined as the key qualification to be able to join the rest of the society and have a say in the society (Beauftragte der Bundesregierung für Ausländerfragen 2001, 5). This definition calls for immigrants to learn the language that is defined as

the common language by the immigration country.

It is important for an immigration country to follow the right integration policies concerning the languages of the minorities especially in terms of educating immigrant children. In this context, the most important problem about the language is about the mother tongue education of immigrant children, and the way to approach the multilingualism of these children. Germany does not have any certain language policy concerning the minority languages (Gogolin, 1994: 22) but its policies so far have not been accepting and considering of the bilingualism of immigrant children. Germany tried to provide adaptation of the immigrant children to the German language with certain education programs teaching them how to read and write in German. In some schools where the number of the Turkish immigrant children is high, schools include elective Turkish lessons in their programs. These are small but positive steps in order to become an immigration country. But this happens only in a few schools and is not enough. Bilingualism should be seen as a qualification by the education system. Some CDU politicians were expressing that immigrant children lowered the quality of the education because they could not speak German well. These kinds of comments could be made because immigrant children's real capacities and intellects are not measured correctly due to the language handicap, and they are mostly directed to attend lower education programs which are usually under their intellectual capacity (Gogolin, 2000, 30).

When we look at Germany considering its language policy, we see that it could not reflect bilingualism in its schooling system. This is an indicator showing that the cultural criteria for the immigration country are not implemented because languages spoken and represented by the immigrants are not represented at the school level. Although every scientist studying language emphasises the importance of mother tongue knowledge while learning a second language, Germany does not attempt to change its education programs in order to teach immigrant children their mother tongues to force the better learning of German. This attitude turns the advantage of immigrant children's being bilingual into a disadvantage for them and

invites further disadvantages for immigrants concerning their equal social participation in society in the future.

The second problematic area coming after language is religion. It is the norm that state policies should be neutral concerning the issue of religion. This is stated by the German Constitution and it is also a necessity for democracy (Muckel, 2001: 58). In that sense, the commission which prepared the draft of the immigration law also suggested that religion lessons at schools should not be limited by Christianity and should be reorganised in order to include the Muslim students (Bericht der Unabhängigen-Kommission, 2001).

The question of recognising these lessons for the Muslim students came to the agenda recently. The main discussion points concerning the issue were whether these lessons will be German or Turkish, who will teach these lessons, which institutions can be accepted as authorities about Islam and which institutions should be contacted.

Since religion is a part of culture, immigrants' religious needs are discussed under the title of cultural rights here. It is important to the immigrants that their religious needs are met in the immigration country. If they can freely exercise their religions, they will feel that they are accepted in that country and they are seen as a part of the society and their needs and demands are considered and answered. This will contribute to further adaptation and integration, so it can be considered as an integration policy option.

In some areas like language and religion, trying to adapt immigrants to the society by assimilation will not work. The state's attitude, in this respect, should be following the guidelines of democracy, and recognising and respecting the differences, and being neutral both to the majority and minority. The state should not

be closer to any groups but stand at a neutral point, and try to eliminate the barriers that prevent different groups from expressing themselves. Germany has been discussing these policies but no concrete step has been taken yet.

Anti - Discrimination Policy

Another debate that is very central to the immigration country concept is about anti-discrimination measures because discrimination refers to inequality, humiliation, and double standards (Schulte, 2002: 63). Anti-discrimination policies, which can be summarised as following the immigrants' exclusion (by institutions, individuals) at the social level and intervening into this social realm in order to eliminate the inequalities caused by this exclusion, are the criterion to measure the extent to which a country can be considered as an immigration country. Problems concerning the social state or the rule of law or cultural freedom can be independent from the immigration and immigrants issues in a state system. The problem is whether immigrants can benefit from the same rights and opportunities that are available for the citizens or not. Immigrants' demands are to have access to the already existing rights, to have equal rights, like the citizens. Now, another dimension is added to these demands for anti-discrimination policies because anti-discrimination policies mean more than providing equality. The state and its powers (legislation, execution, jurisdiction) should do more for immigrants because social prejudices can be so strong in a society that laws can not provide real equality for immigrants. Thus, the state should take action as a social actor and a referee in order to provide equality

Mahnig (2002), in his definition of the immigration country, also puts emphasis on anti-discrimination policies: In order to prevent discrimination and racism, these should be defined as crimes in front of the laws and there should be sanctions against them. In England, acts such as "Race Relations Act" and "Commission for Racial Equality" enabled the immigrants to apply courts against

discrimination. In Germany neither these kind of acts nor sanctions are used for the arrangement of such social problems. There are rules used against racist discourses and broadcasts, but they should also be actively used in work and housing sectors as Mahnig says:

Concerning the immigration issue first of all the inequalities in legal regulations should be abolished. Later, fight against social discrimination should be extended with social and political means, and since immigrants are not employed automatically by the business market like in the 1970s, they should be encouraged with education opportunities and economic assistance. They should not be left alone with the severe market conditions. Urbanisation should also be considered as a central tool in order to prevent the formation of problem-producing regions. The last and the fourth thing to do should be establishing and developing an open dialogue with the immigrants and the locals. This can be realised via some associations and common activities. (Mahnig, 2002: 33)

Mahnig gave importance to the content of anti-discrimination policies, especially to the social exclusion (not state institutions' attitudes but local peoples' attitudes towards the immigrants) and suggested two solutions for this problem:

- 1- Finding ways of better communication between the immigrants and the local people in order to remove the prejudices and tension: Prejudices and tension are observed in general to appear between the communities that do not know each other well. For this reason, in order to facilitate the cohabitation and remove the prejudices a solid information and communication policy should be followed. Four different ways can be pursued:
 - a. Supporting the associations and societies founded by immigrants, since these associations have a central role for integration as mostly through them that immigrants establish contacts with the society
 - b. Supporting the social and cultural activities financially and contributing to the intercultural meetings and seminars.
 - c. Supporting the formation of different immigrant committees and

councils as mediators.

d. Inquiry agencies should work as consultants in bureaucracy and government to inform them about the issues and the problems that the foreigners face. Such as foreigners consulting assemblies (*Auslaenderbeauftragte*).

2- Providing immigrants' access to state institutions: This policy would aim to employ the immigrants in bureaucracy, in the police forces and in other state institutions which should be open to all sectors of the society and know them. State institutions should be a part of the society. England tried to make this possible in the public sphere with "Community Policing" and "Ethnic Monitoring" practices. Germany lacks these kinds of practices (Mahnig, 2000: 61).

Anti-discrimination law should define 'exclusion' and 'discrimination' as a wrong attitude along with trying to eliminate the social prejudices. There should be some institutions and courts immigrants can resort to when they face discrimination. Defining a situation institutionally and putting the existing relations under the rule of law can be materialised by anti-discrimination law. Germany is now working on this kind of a law which was planned to be issued on June 2003 but it is still being deliberated. It is not necessary to discuss the content of this law here, but it should be mentioned that its content is vital for Germany's immigration country image. Germany will come closer to being an immigration country with this law if it can adapt it finally. For the moment it is discussed in the parliament but it could not become valid for a long time even if adopted because it was not ratified in the assembly of provinces. Meanwhile discussions on anti-discrimination drafts in the European Union Parliament constitute motivations for furthering the reforms.

2.3. Classical Immigration Countries

After presenting a theoretical framework for the concept of the immigration country, it is now important to take a look at the immigration processes and immigrant policies of the United States of America, Canada and Australia, which are known as the classical immigration countries, in order to improve our knowledge on the concept. Therefore, as the last issue of this section, we shall take a look at the processes and policies of the classical immigration countries, which will hopefully be a useful glance providing us with certain examples on our subject from the practical life.

When analyzing the classical immigration countries, the experiences of these countries shall not be treated in detail, but policies shall be underlined. Therefore, we shall try to stress the similarities between the experiences of these countries in particular and the concept of the immigration country in general, the theoretical framework of which is presented above.

Comparing Germany with the classical immigration countries is a problematic analysis since the former has the intention to become an immigration country, but the latter officially accepted and politically expressed to be immigration countries since the very beginning of the migration processes. Therefore, this will be an analysis not to make a direct comparison between Germany and the classical immigration countries, but to draw a more detailed picture of the concept from the real life experiences. Since the classical immigration countries formed their construction of nation state together with the immigration process, immigrants have become the constituents of their societies. However, in Germany, immigrants are considered to be “foreigners.” Germany’s peculiar process is going to be introduced in the second section. However, at this point, it is necessary to look at the immigration processes of the classical immigration countries to further explain the concept of the immigration country in general.

2.3.1. Immigration policies in the US

The immigration history of the US dates back to the very establishment of the states. The US used the term “American” when developing its own understanding of nation. This feature separates the US from other classical nation states. The concept of “American” is a definition, which is used to indicate an integrity irrespective of common language, religion and culture.

The residents of the US descended from three major groups:

-Colonists: The formative population which set the framework for what became the United States were the colonist-founders. Starting in Jamestown, Virginia and Plymouth as well as Massachusetts, the English colonists gained power by taking over New York from the Dutch and assuming control over various French and Spanish settlements. English became the official language and the common law of England became the legal framework for the North American colonies.

-Involuntary Americans: Two types of coercion contributed to the peopling of America: the importation of African slaves, who were 19% of the population in 1790’s, and the incorporation of the Native Americans. Besides Spanish and French populations as the original colonists also were to adapt. Notable examples were the Frenchmen who became American with the Louisiana Purchase, the Mexicans who became American with the settlement ending the Mexican War in 1846, and the Puerto Ricans who became US citizens as a result of the American victory over Spain in 1898.

- Immigrants: In 1789, when various new comers added to the United States, the word “immigrant” entered the language to describe the voluntary process of foreigners coming to the now-established nation of the US. Immigrants and their descendants, together with the colonials, the slaves, the native Americans and their

descendants, make up the American people of today. (Martin, 2001: 501)

In the beginning of the 19th and the beginnings of the 20th centuries, there was almost no restriction on the immigration to the US. There had been some insignificant limitations especially for the Asian immigrants but serious restrictions were imposed in 1921. In 1921, the US switched to the “national quota system” and limited the number of the immigrants to be accepted annually. In addition, different limitations were put into practice depending on the nationality of the migrators. This system was legally valid until 1965. In 1965, a new category of immigrants called “preference classes” was added to the Act with a modification, and the annual immigration quota was extended to 20.000. In 1986, with the “Immigration Reform and Control Act” (IRCA), the essence of the previous act was maintained but some new regulations in order to prevent the illegal immigration was added. With the 1991 “Immigration Act” (which came into force in 1992) quotas were set:

- 1- The immigrants’ family reunifications,
- 2- Economic and
- 3- Humanitarian reasons

The immigration caused by family reunifications or economic reasons is evaluated in a different category than that of the refugees. Refugees are subject to the 1980 “Refugee Act”. The political asylum is considered separately from the above categories. Another category of non-quota immigrants is the espouses and the children of the American citizens. (Weber, 1997: 77)

Immigration based on economic reasons: (employment based immigration)

The annual quota for this category was changed in 1991 from 54.000 to 140.000. This category is divided into five subcategories:

- 1- High qualified employment: People who are skilled and educated in the fields such as economics, science, art, and people who are experienced in these fields as administrators, managers etc.
- 2- High qualified university graduates, male/female: the scholars
- 3- Skilled workers, professionals, unskilled workers
- 4- Special immigrants: people who work for international organizations
- 5- Employment creating jobs: People who want to make an investment or take part in a current investment in the immigrant receiving country. (Green, 1995)

The measures necessary for the integration of the immigrants into the society and their participation into the social life have been set out within the framework of the law. At this point, Germany's law on immigrants is quite different from that of the US. The German law on foreigners is based on the aim of preventing the further immigration of foreign workers, making the family reunification more difficult. However, the form and content of the new immigration law currently under discussion, resembles the US immigration law. This new law, as in the US, puts forward the necessity for new legal regulations with the aim of satisfying the country's need for additional workforce, and it also tries to set out the required criteria for this process.

The legal rights and the right of citizenship play key roles in the conception of the immigration country. Let's take a look at the US' rights of residence and rights

of citizenship within this framework.

The Residence and the Citizenship Rights:

Two different residence types are cited in the law:

- 1- Temporary Residence: It turns to permanent residence after one year.
- 2-Permanent Residence: The immigrants who obtain this residence permit also obtain a “Green Card”. (Green, 1995: 133)

The law determines the residence rights with the assumption that the immigrant is going to stay in the country for a long time. When a short term of residence up to one year is considered, if the immigrant still resides in the US after the expiration of his/her permit and wants to continue to live there, the permanent residence becomes valid under the law. In other words, this provision provides the immigrant with the permanent residence right, acquiring him/her the opportunity to overcome a number of legal obstacles.

The judicial characteristics of the citizenship law are briefly as follows: The immigrants who lived in America for five years can become American citizens and can keep their previous citizenship at the same time if they can express themselves in English, both written and oral, at a reasonable level. The definition of “foreigner” deserves extra attention. According to the law, a foreigner is someone neither belonging to any immigration categories, nor belonging to American nation and who is not an American citizen (Wessely, 1999: 61).

This law states that the citizenship right is a land-based one, adding that there is a requirement to facilitate the process of obtaining the citizenship right to help the immigrants to integrate with and participate into the society. We previously stressed

in our discussion of the concept of the immigration that such an approach is an important criterion.

2.3.2. Immigration Policies in Canada

Canada is also exemplary as a classical immigration country with respect to its immigration policies and practices. In this framework, Chairman of UNO's Commission of Refugees, Sadako Ogata said, "UNHCR would wish to note... that the Canadian system, with its resources, expertise and humanitarian focus, is recognised internationally as a model to be emulated." (1998)

In addition, a political scientist as well as a scholar who studies on immigration laws, Freda Hawkins stated, "Canada's great achievement during these years (between 1963 and 1984)... has been to produce an excellent new Immigration Act in 1976, which is one of the best pieces of immigration legislation to be found anywhere." (Hawkins, 1989)

Canada is an immigration receiving country since its establishment in 1867 with the North America Act, but Canada started to be an immigration country later in the first decade of the 20th century, the immigrants formed the half of the increase in the population. Canada's decision to designate a law based on ethnic quotas was aiming to attract the North Europeans. Between the two world wars, the 7% of Canada's population was composed of the immigrants. During the economic crisis after the Second World War, Canada opened its doors to the immigrants demanded by the market. The "Immigration Act" of 1952 was amended in 1962 and 1967 and gained a legal framework with the "point system." Canada officially defined itself as a multicultural society in 1970 and added this statement to its Constitution in 1982. Today, the law regulating the immigration policies has been effective since 1978. The criteria to allow immigration are as follows:

- 1- Demographic aspect
- 2- Family reunification
- 3- Integration
- 4- No Discrimination
- 5- The protection of political asylum seekers
- 6- The maintenance of Canada's welfare and assuring its social and cultural development. (Green, 1995)

These criteria are of great importance since they display the very foundations that the Canadian Immigration Law is based. These criteria also show that a classical immigration country might need more immigrants due to demographic reasons in addition to the economic ones. The immigration necessitated by demographic reasons can be defined as a common feature of the immigration countries. The immigration laws of the immigration countries attach special importance to the migration which is needed to eliminate the imbalance between the rates of birth and death. The new German immigration law uses a similar language stressing the same demographic need, it is observed that Germany approaches to the classical immigration countries with this law.

The “integration” and “no-discrimination” among the above-mentioned criteria are the ones that was discussed in the debate on the concept of immigration. What the concept of the immigration country emphasizes is the fact that, in the very beginning of the immigration process, the immigration country assumes that the immigrants migrate to their country for a long period of time. For this reason, the integration policies are very important for these countries since the beginning of the immigration, which are required to help the immigrants to participate into the society. Another important point is that the immigrants need to be protected by the state against racism and discrimination. This problem is also recognised by the Canadian immigration law.

The welfare criterion is significant since it shows us the relation between the immigration country and the process of immigration itself. First of all, it is aimed to help the country to develop both economically and socially, and to increase the level of national welfare. From this point of view, the immigrants are not considered as “burden” but necessary people who will contribute to the welfare of the country. This approach affects the regulation of the country’s immigration policy. Within this framework, it is easier to tell the residents of the country of the positive roles that the immigrants play in the country’s economic development and the increase in the national welfare. When the immigration process began in Germany since it was stressed that the immigrants were nothing but burden on the country, and the positive contributions of the immigrant workers to the economy neglected. However, the new immigration law underlines the fact that immigrants will positively contribute to the economic development of the country and that they are necessary to protect and improve the social welfare.

In Canada, at the beginning of each year, the 5-year plan of the immigration policies are reviewed in terms of the quality of the immigration, the capacity of the country, and the demand of the market. Not only the government but also other state institutions, nongovernmental organizations, associations and profit groups actively take part in the preparation of this 5-year plan. This procedure makes the preparation of immigration policies more democratic by opening them to discussion among different interest groups. Social compromise is a very essential factor for the integration of the immigrants into the society. Canada sets a good example of social peace in this respect. (Martin, 1996: 15).

There are three categories of immigration in Canada:

- 1- Immigrants who migrate to Canada due to family reunifications (family class): This category is not included in the 5-year plan. It allows Canadian citizens and permanent residents to bring their families to Canada. There is no limitation or quota on this category. Half of the annual immigration belongs to this category.

- 2- Immigrants who migrate to Canada due to economic reasons: Immigrants in this category are chosen according to a number of predetermined criteria, which are namely education, professional education, professional experience, the demand of the market, designated occupation, demographic factor (to fill the gap between the economically active and dependent people), age, English or French language skills, adaptation capability, and motivation. There are four subcategories in this group:
 - a. Self-employed people
 - b. Business immigrants
 - c. Retirees
 - d. Assisted relatives
- 3- Immigrants who migrate to Canada due to humanitarian reasons (Vogelsang, 1999: 139)

The most important characteristics in the Canadian model, which will constitute an example for Germany, is that the immigrants of Canada positively contribute to the social life of the country with their differences. In other words, Canada's immigration policy is based on the idea that different identities and life styles can live together, contributing each other's welfare. This point of view is efficient for both native residents and the immigrants. The method to attract more qualified workers to a country is to develop such immigration policies underlining positive features of a multi-cultural life. Since the qualified workforce is selective, Canada is the most attractive country for highly qualified workforce.

Residence and Citizenship Rights

Immigrants in Canada obtain permanent residence right if they are not economically dependent, if they do not have any contagious diseases and if they did not commit crime or did not take part in activities against the state.

With the 1976 “Citizenship Act”, an immigrant who lives in Canada for three years can obtain the citizenship right, yet at the same time he should know one of the official languages, must be aware of his rights and responsibilities, and know the history of Canada. Canadian citizenship law is based on territory principle. A child who is born in Canada can become a Canadian citizen independently from his parents’ citizenship status.

Canadian immigration law also includes some social policy precautions. Multiculturalism is accepted as a basis, and convenient integration policies are implemented as well. Language courses, interpretation services, financial aid to newcomers, consultancy services are among those measures (Bibby, 1990: 70).

Since 1971, Canada’s state ideology has been based on the principle of “multiculturalism.” In this country, which already has a bilingual and bicultural (English and French) social structure, the ideology of “multiculturalism” is adopted by the state to facilitate the integration of the immigrants into the society, covering all of these three social groups (English speakers, French speakers and the immigrants). This ideology aims at legalizing the support of the state for the protection of immigrants’ cultures. Under this approach, the state officially recognizes all cultures within its territories to prevent any possible social conflicts between the majority and minorities and to help them overcome certain problems, which might come out due to their common lives. It also assigns the Canadian state as the responsible authority on the regulations of speaking and teaching foreign languages. The concept of “meltingpolt” in the US proposes one common identity for all people as the “Americans.” However Canada’s immigration policy recognizes all separate identities and cultures, and aims at establishing equal relations among them. On the other hand, the concept put forward by Germany seems to resemble with the concept of “assimilation.” The reason for this situation is that there is a strong nation state tradition generally in Europe and particularly in Germany. Classical immigration countries such as Canada and the US are different from Germany since they first of all defined the concept of the state, and then tried to establish a social

integrity in line with the laws which are valid for all of the people living in their territories.

2.3.3. Immigration Policies in Australia

The third example for a classical immigration country, Australia, has formed its immigration policies by taking the US and Canada as its models. 17 million people live in Australia and 90% of the population is English-Irish Australians.

The first immigrant groups included the convicts who were brought to Australia from England during the colonization period. After the declaration of independence under the name of “Commonwealth of Australia” in 1959, the first immigration law (Federal Immigration Restriction Act) came into force. This law - like the ones in the US and in Canada - then included certain articles that made it difficult for non-white people to migrate to Australia. In 1973, discriminatory features of the law were eliminated.

As in the other immigration countries, in Australia, the immigration policies are influenced by the needs of market, the state and the society. Immigration policies are prepared by the Ministry of Immigration as 3-year plans, which declare the number of immigrants annually needed.

Australia (like the US and Canada) has also three different immigration categories:

- 1- Family Migration: The law distinguishes between two groups:
 - a. Preferential family migration: There are no preconditions for the family members in this group. The right of a family to live together is internationally protected.
 - b. Concessional family migration: Farther relatives and second-degree family members are in this group. These people's migration to Australia is subjected to certain preconditions.
- 2- Skilled Migration: This category is created to attract qualified labor and investments. It has some subcategories such as employer nomination scheme, business skills, distinguished talents, and independents. The table below shows the criteria for this category.
- 3- Humanitarian Migration. (Weber, 1997: 108)

In Australia, a “point system” is used to organize the process of immigration as in other immigration countries. Certain qualifications are measured in terms of points. According to the points the applicants obtain, relevant authorities decide whether or not he / she is eligible. The latest version of Germany's immigration law also includes such a system of scoring. Among the significant criteria in this scoring system are the level of education, level of language and age etc. Thus, the targeted immigrants are better identified and also undesired level of immigration is prevented. The point system is used in all immigration countries.

Residence and Citizenship Rights

Both immigrants and tourists should obtain a residence permit. Yet tourists get a short-term visa while the immigrants take permanent residency when they arrive. The Australian Citizenship Act has been valid since 1948. In 1986, the provision, which makes children who are born in Australia automatically Australian citizens, was amended. After this modification, a child who is born in Australia can become an Australian citizenship only if one of his parents is an Australian citizen or

is a permanent resident when he is born. If these conditions are not met, then the child becomes an Australian citizen after 10 years of residency.

Immigrants can apply for citizenship after 2 years of residency in Australia, which is shorter than the period required in Canada. In all immigration countries, giving the citizenship right to immigrants is seen as an important part of the integration policies. Therefore this process is facilitated since legal differences are eliminated with the acquisition of citizenship. Moreover, the right to elect and to be elected are gained. (Hawkins, 1989: 29)

Australian immigration law, like those of the other two classical immigration countries, the US and Canada, gives primacy to integration and sociopolitical issues such as the language courses, free translation services, consultancy services. Australia's immigration policies are also officially based on the principle of multiculturalism. The policies show us that Australia does not take multiculturalism as a threat to its national identity but on the contrary allows the minorities and immigrants enjoy the same rights and freedoms with the native citizens. This understanding provides the necessary environment for multiculturalism and peaceful cohabitation of different identities. In Australia, social peace is seen as an important means of enhancing economic productivity and development.

However, at this point, there is a need to underline that all three countries' descriptions of their "national culture" and "nation state" are different from the traditional definitions of these concepts. These countries have established a constitutional and judicial common ground for the process of immigration. That's why obtaining the right of citizenship is much more easier in these countries than Germany since they use the term citizenship as a title for cohabitation.

2.4. Conclusion

There are different stories and theories of immigration in the history. Immigration, which was initially an economic activity, has become a social and political activity within the course of the history. Therefore, states have begun seeking political and social resolutions to the problems derived from the process of immigration. While the identities of immigrants, their legal and political rights have become the subject of study for the social sciences, the immigration discussions in Germany have focused on the concept of the immigration country. The concept of the immigration country has been brought onto Germany's political agenda especially after 1990s as the effects of the second and third generations of the immigrants on German society have begun to be observed. In addition, Germany's current immigration policies have failed to properly deal with these new generations and social problems derived from the immigrants. The immigration country means that there are certain amounts of resident immigrants in the country's territories and that the country continues to receive immigrants for a number of reasons. Among the reasons that lead the country to continue to receive immigrants is the family reunification, the need for foreign workforce and the issue of asylum. The concept of the immigration country provides the countries, which have become immigration countries within the course of time, with an important political opening. Since Germany has eventually transformed into an immigration country in spite of its immigration policies refusing to be so, there is an abyss between the country's reality and policies. That's why, Germany regards the concept of immigration country differently from the classical immigration countries, as an issue to be used to eliminate the gap between its policies and the reality.

One common feature of the immigration countries is that these countries need the immigration for both economic and demographic reasons. Immigration policies of these classical immigration countries and the "point system" (*punktsystem*) used for receiving immigrants are the best defined ways to organize the number and characteristics of the immigrants who are expected to migrate to the country.

Germany has recently begun discussing its new immigration law so as to mitigate the adverse effects of ever-growing old population in the country, besides taking into account that the German economy needs more highly qualified workers. This shows that Germany is an immigration country not only because it currently has a large population of immigrants, but also it needs the recruitment of more foreign workers.

The concept of immigration country indicates not only certain social, economic and demographic facts but also certain immigration policies and understandings. We have tried to explain these in the above section on the concept of the immigration country. In brief, the integration policies aim at opening judicial and social ways for immigrants' equal participation into the society with the native citizens. We can give certain examples for such policies: facilitating the process of obtaining the citizenship right, anti-discrimination laws and measures taken to help immigrants participate into the politics. Another important point is that the immigrants should be socially and economically supported by the state to establish equal relations between the majority and minorities and to help immigrants sustain their differences. Examples such as bilingualism and freedom of religion can be given at this point.

CHAPTER-III

IS GERMANY BECOMING AN IMMIGRATION COUNTRY?

3.1. Brief History of Migration to Germany

Presenting the history of immigration in Germany is of great importance to understand how the country has eventually transformed into an immigration country. Germany is quite different from the classical immigration countries with respect to its establishment and immigration experience. Germany has eventually become an immigration country within the course of history. In the relevant literature, Germany is known as a “de facto immigration country.” In order to understand this specific type, the history of immigration and discussions on new immigration law are very important.

Within the history of immigration, various discussions on whether or not Germany is an immigration country have been held. We shall try to present these discussions below, which have initiated after the 1980s.

3.1.1. Between 1952 and 1973

The most important point that is needed to be stressed for this period when Germany experienced its most intense period of immigration is that the labour markets manipulated the process of immigration. In other words, the immigrants

were accepted into the country for a short period of time in order to eliminate the lack of workforce in the economy. The impetus of the immigration was the lack of workforce and the official demand for the recruitment of foreign workers to immediately fill this gap. Foreign workforce was organized to satisfy the needs of the German economy in this respect. During this period, Germany pursued neither a specific policy on foreigners nor any integration policies.

In December 20, 1955, the officials of the German and Italian governments paved the way for the first recruitment of foreign workforce by signing an agreement in the post-World War II period. Then, Germany signed similar agreements with Spain and Greece in 1960. In 1961, Germany signed agreements with Turkey and Portugal, which led the beginning of the exodus of foreign workers into the country. The recruitment of foreign workers from Yugoslavia began in 1968 after an agreement. (Bade, 2000)

The most important point in this period is that Germany underwent an economic boom in the postwar period and began restructuring its social system along with this development. In the wake of this economic miracle, approximately one million foreign workers had entered the country by 1964. Both scholars and politicians underline that Guest Workers (*Gastarbeiter*) played a major role in this economic success and that the foreign workers significantly contributed to the formation of the social system. Once foreign workers were recruited in Germany, German people had the opportunity to improve their more sophisticated professional careers by leaving hard works to “*Gastarbeiters.*” At this point, we see that the Segmented Labor Market Theory, one of the theories that was presented in the first section, applies to this situation. Since the immigrants of this period came to Germany for short periods of time, the practice coincided with this theory. Friedrich Heckmann as a researcher on immigration stated that between 1960 and 1970 approximately 2.3 million Germans obtained the opportunity to increase their status from workers to civil servants and technicians thanks to the foreign workers who entered the country. The same research stated that the number of “social security

funds” increased in this period thanks to the taxes paid by the “*Gastarbeiter*”s and the fact that they failed to benefit from their social rights (Meier-Braun, 2002: 41).

The concept of “*Gastarbeiter*” describes the foreign workers who migrated to Germany for short periods of time for this purpose. The principle of rotation was adopted and the immigration plans proposed that the workers came to the country temporarily and would have to return to their own countries after working in Germany for one or two years. However, by looking at the demographic facts, we can see that the plan failed since today above 7 million foreigners are living in the country. In addition, most of these foreigners are second and third generation ‘*Gastarbeiter*’s. Taking into account that 1.999.000 of these immigrant workers are Turkish, we can say that although the agreement which was jointly signed by the Turkish and German governments in December 30, 1963 did not estimate such consequences, the reality turned to be otherwise.

Within years, while the economic development trends slowed down Germany took no measures on the issue, and failed to deal with social and political aspects of the concept of immigration. There was no policy on foreigners within this period. For this reason, Max Frisch made the following statement which is well known by the scholars of immigration (1965): “We wanted workforce, but human beings came.”

When we look at the discussions which occupied Germany’s political agenda today together with the new immigration law, we see that the need for new foreign workers which is required to be regulated by this new law also arises from economic reasons and the lack of workforce in certain sectors. A new kind of qualified foreign workforce is needed. As it was in the 1960s, today so as to protect Germany’s level of welfare and to boost the country’s capacity of economic competitiveness in the international arena. In other words, the main motive is to reorganize the industry and labour markets in line with the current requirements. For this reason, the

understanding of immigration in the 1960s and the current need for foreign workers have similar motives.

However we see that the immigration philosophy of Germany have changed when we look at German Minister of Interior Affairs Otto Schilly's definition of an immigration country. Otto Schilly defines an immigration country as follows: "A country, which is aware of the fact that the immigrants build their lives in its territories and which also takes the necessary steps for developing a successful integration policy for the foreigners, is an immigration country." Schilly who is the interior minister of the government which prepared this new law underlined that his government would deal with the issue of immigration with a different perspective and method by including integration policies into the new law. In other words, Germany's understanding of immigration is to change with this law when compared to that of the 1960s.

3.1.2. Between 1973 and 1981

The most important characteristic of this period is the legal restriction imposed upon the number of foreign workforce that the country received. In this period, pros and cons of the recruitment of foreign workers began the discussion. Since "*Gastarbeiter*"s started to bring their families to the country in the 1970s, the planned phenomenon of "temporary workers" failed. During the pros and cons discussions, the widespread fear that the social conflicts might increase due to the increasing number of foreign population in the country reached its peak when the German government banned the recruitment of foreign workers with an official decision on November 23, 1973. However, the government also regulated the conditions and the required methods for the foreign workers' family reunification, who wanted to stay in the country for a long time. (Hoffman, 1992: 70)

While the government banned the recruitment of more foreign workers at the same time, it provided “*Gastarbeiter*”s who planned to stay in Germany for a long time with the opportunity to bring their families to the country. In this period while the German government took seemingly contradictory steps on the issue, first steps on the path towards becoming an immigration country was also taken. But in reality, Germany has not made moves with the aim of becoming an immigration country until this new immigration law, but on the contrary, developed its immigration policies on the motto that “Germany is not an immigration country.” However, Germany has eventually become an immigration country within the course of history despite it refused to be an immigration country basing its immigration policies on such a principle.

The number of the immigrants in 1960 was 686.000. The figure increased to 4.4 million in 1980. In 20 years, the number of immigrant workers increased by seven times. The German government which tried to take measures against this increase expressed in an official statement by CDU member Baden-Württemberg Prime Minister Filbinger in 1973 that it accepted the first foreign workers for short periods of time and wanted the foreign workers to return to their countries in line with the principle of rotation which requires the replacement of these people with new immigrants. However, opposition parties in the Parliament and trade unions harshly opposed to this statement. Trade unions and employers stated that since “*Gastarbeiter*”s spent their early times in Germany to learn about their work and adjust to the conditions of the country, the acceptance of new workers would mean the waste of time – as well as an uneconomical process - since this adjustment process repeats itself with each newcomer. That is why the principle of rotation was rejected by the business circles, since they believed that it would bring about nothing but negative consequences. The process of immigration, which was initially stemmed from the economic requirements of the country, is still being shaped in line with the economic developments. (Schöneberg, 1993: 49)

The German government initiated its work on a policy of foreigners in 1973. The first policy focused on the assumption that the foreigners would plunge the country into more social conflicts. Therefore, in order to prevent such conflicts, the policy was based on the idea that further entrance of foreign workers into the country should be prevented and that the workplaces should be established in the areas where the number of the relevant workforce is high, rather than bringing new people to the country. (Meier-Braun, 2002: 44) This decision again reminds us of the current discussions on the new immigration law. CDU member Norbert Blüm made a similar statement after approximately 30 years in 2002 that it is the workplaces which should be transferred to the areas where the relevant workforce lives, but not the foreign workers. However, since the immigrant workforce which Germany needs is not merely related with the lack of workforce in certain workplaces, this statement might be interpreted as an attempt to “opposition” for the sake of “opposition.”

Meanwhile, a number of commissions were established to form an official policy on foreigners. One of these commissions which was established in 1976 proposed that foreign workers should be encouraged and supported to return to their own countries, but rejected the measures forcing them to go back to their homelands. But the same commission also stressed the importance of the measures of integration and that of the necessary measures that should be taken to bring immediate solutions to immigrants’ accommodation and education problems (Bade, 2001: 88).

Between 1979-80, the policies of integration have become the center of the policy of foreigners. Not like Otto Schilly’s understanding of an immigration country but with the imposition of Germany’s realities, the issue of integration has become a key issue in the country’s policy of foreigners. Another important incident of these years which is important for the policy of foreigners was the famous 1979 “Kühn Report”. SPD member and former Nordrhein-Westfalen Prime Minister as well as the first Representative of Foreigners of those times (*Ausländerbeauftragter*) expressed certain extreme demands in his report. Some of his demands were as follows: to consider the foreign workers living in Germany as “immigrants” not

“*Gastarbeiter*”s; granting them with the right to vote in the local elections; providing the children of Muslim immigrant families with the lectures on Islam at schools; accepting the immigrants’ children who were born in Germany as German citizens etc. (Meier-Braun, 2002) These demands are still valid. This report also underlined the fact that immigrant workers living in Germany should be considered as “residents” and that the concept of *Gastarbeiter* fails to deal with their realities. However, this understanding was not politically expressed. On the contrary, Germany still rejected to officially proclaim itself as an immigration country at that time. However, the country’s de facto profile began to show the characteristics of an immigration country.

3.1.3. Between 1981 and 1990

In this period, the issue began to be discussed as a “problem of foreigners.” The official policies proposed restrictions on the numbers of foreign workers and the entrance of new foreign workers into certain cities should be legally banned due to high number of immigrant workers in these provinces. On June 2, 1981, Berlin Prime Minister CDU member Richard von Weizsäcker remarked in a speech that, ‘Foreigners should either decide to return to their countries, which shall be financially supported by the German state, or choose to stay in Berlin, which would inevitably mean that they decide to be German.’ (Meier-Braun, 2002: 50)

On November 11, 1981 the German Prime Minister said in a press release, “Germany does not want to become an immigration country and will not be so. Family reunifications of immigrants and arrival of new foreign workers must be prevented by using all legal instruments in line with the German Constitution.” This statement showed that the understanding of rejecting to be an immigration country still prevailed in the German politics and that the focus of the policy on foreigners was still on the aim of preventing the arrival of new immigrants. (Bade, 2001: 77)

Another significant development of this period was the reduction of the minimum legal age for the children of immigrant families who want to come to Germany with the purpose of family reunification from 18 to 16. The issue of age for the children of immigrant families is an important subject, which is still under discussion. The CDU / CSU coalition wants the age limit to be reduced to 6-8 years. Besides this implementation which was aimed at preventing the arrival of more foreign workers into the country, the immigrant workers have faced more obstacles against their family reunification. One of these is that the German authorities check the revenues of the immigrants trying to bring their families to the country. In addition, such people are obliged to rent a suitable apartment for the size of the family.

The main reason of this policy shift was the belief that the German society was not ready for further social conflicts that are believed to increase with the arrival of new foreign workers. That is to say, foreign workers were considered as a social problem. Prevailing political understanding of this period was the belief that social peace will be destroyed by the increasing number of foreign workers. Consequently, the only way to prevent such a development was believed to be giving an end to the new arrivals. Since Germany targeted this immigration process to be a short one and failed to prepare for its consequences, the German society developed a negative stance against the foreign workers. Foreign workers are seen as scapegoats and whenever the things were not so good in the country people often talked about the necessity of immigrant workers' return to their countries. Germany on the one hand historically had defined itself as a "de facto immigration country" but continued to strengthen the distinction between the concepts of "German" and "foreigner" by putting special stress on the German nation state. Therefore, the process of integration has become more difficult for the immigrants. In other words, while the concept of immigration country is being shaped in the practice, this process is insistently rejected by the political arena.

Although the law on “supporting the return of foreign workers to their countries” which was put into force in 1983/84 was beneficial for certain immigrants, it failed to reach its intended targets in general. Statistically, it was stated that 300.000 immigrants returned to their countries due to this law. (Mehrländer, 2001: 92)

On the other hand, in the discussions on the “problem of foreigners,” the issue is considered to be a “problem of Turks” by the German society. The Turkish population which constituted the majority among the foreigners living in Germany has become the subject of xenophobia during this period. In November 1986, SPD member Martin Neuffer described the Turkish population as a group of people who cannot be assimilated. “No, the boat is full,” he responded to a question upon whether or not Germany is an immigration country. “the boat is full” (*Das Boot ist voll*) has become a popular saying which is often seen in the relevant literature on the immigration.

Meanwhile between 1982 and 1998, during the Kohl government, the number of immigrants increased from 4,6 million to 7,3 million. The increase was by 63% in 16 years. The highest number of immigration belonged to Germany during this period when compared to the distribution of immigrants all over the world and in the immigration countries. (Meier-Braun, 2002, 60)

3.1.4. Between 1990 and 1998

This period began after the foreigners’ law was put into force and lasted until the SPD / Grünen government’s formation, when the new immigration law began to be discussed. Most important issues of this period were the refugees and the arrival of the Russians of German origin (*Aussiedler*). This period witnessed intense discussions on the policies of asylum. The concept of “*Gastarbeiter*” lost its

popularity. The reason behind the popularity of the asylum issue was the fact that in 1992 the number of refugees reached to 440.000, the highest number the country ever saw. The law on refugees was opened to discussion and a number of proposals on the new refugees law were produced.

The new refugees law, which was put into force on June 1, 1993, brought about significant changes on the issue. The main objectives of these changes were to make a distinction between the political asylum and the economic refugees, and to shorten the durations of the legal processes of asylum so as to reduce the state expenditures on the economic refugees. This law defines a certain number of countries as “politically safe” and states that immigrants coming from these safe countries will not be accepted. If the immigrant has passed through such a safe country on his/her way to Germany, he/she must apply to a court as a refugee in this country, not in Germany. (Rethmann, 1996: 108)

These modifications caused a considerable decrease in the number of people who applied to be refugees in Germany. While the number of the applicant refugees was 440.000 in 1992, the figure fell down 320.00 to in 1994 and 200.000 in 1995. This law has shortened the durations of refugee cases at the courts. Thus, the final verdicts of such cases are today reached in shorter periods of time when compared to past examples which lasted for years. This criterion helps to identify the economic refugees and make them return to their countries. Therefore, the total number of refugees living in the country significantly decreased. On the other hand Germany has not opened the issue of political asylum to discussion since it was a legal right protected by the German constitution. The German government described the people as “temporary refugees,” who took refuge in Germany due to the civil wars and natural disasters in their countries, and it aimed at returning such people to their countries as soon as the civil war or the emergency situation is over. This issue is also an important feature of the new immigration law, which tries to prevent the improper practices by the economic refugees, abusing the rights granted to them by the refugee law. (Rethmann, 1996)

Another significant issue of this period was the Russians of German origin (*Aussiedler*). After the Union of Soviet Socialist Republics disintegrated in 1990, 400.000 “*Aussiedler*” arrived in Germany. Since these people easily obtained the right of citizenship and were sent to language courses soon after their arrival, we can say that the German government’s stance towards these people was quite positive. “*Aussiedler*,” who did not know German, easily obtained the right of citizenship as soon as they proved their German nationality. This practice constituted an example for Germany’s kinship-based citizenship policies. (Meier-Braun, 2002, 81)

While the children of the immigrant families are seen as “burden” on Germany, those of *Aussiedler* are considered to be important human resources who should be immediately integrated into the German society. Opportunities, which have never been offered to immigrants’ children who can speak German and who live in this country for years, were immediately provided to these peoples’ children. Since they easily obtain the citizenship, they are also immediately granted with more rights than other immigrants. This discrimination stems from Germany’s kinship-based citizenship policy.

During this period, xenophobia and racist violence raised in the notorious Mölln and Sollingen incidents. On May 29, 1993, in the Sollingen incident, five Turkish people were burned to death by an attack of xenophobic and racist group of people. In addition, in August 1992, a number of young people attacked to a refugees’ dormitory in Rostock and the dormitory was burned. According to the statistical data announced by the Ministry of Internal Affairs, 2351 violent incidents of racism took place in 1991. In this period, the immigrants did not feel themselves safe in Germany. According to a survey, 65% of the Turkish immigrants expressed that they felt themselves threatened by the rise of racism in the country. (Meier-Braun, 2002, 85) This period also witnessed an increase in the anti-racist demonstrations and marches denouncing such violent attacks. Especially businessmen associations condemned such incidents, stating that these attacks adversely affected Germany’s image in the international arena. In this period, the US

Secretary of State warned the American tourists not to visit Germany, particularly the eastern part of the country.

Behind this negative mentality of the German society towards the foreigners, there lied the following reasons: An improper refugees law, a fact supported by the claims often put forward by the German politicians that the refugees abused this law to exploit the social state. There is also a widespread belief that the foreigners were nothing but burdens on the society who caused an increase in the unemployment rate throughout the country. Such statements and claims gave rise to racist movements and provoked them. Immigration policies are necessary to establish harmony between the native citizens and the immigrants. That's why, anti-discrimination laws are of great importance for the concept of the immigration country. State's active support in helping the immigrants to sustain their differences, cultures and languages are essential to prevent such violent and racist incidents. Although Goethe said the following words in a different context; "A state which does not protect its foreigners is destined to immediately collapse". (*Das Land, das seine Fremden nicht beschützt, geht bald unter*), These words are significant since they underline the relation between the state and immigrants.

Another important subject for this period was the right of dual citizenship, which began to be discussed in 1997. Since the citizenship rights are of great importance for the immigration countries, the way to facilitate the process of obtaining the citizenship is to recognize the right of double citizenship. The Kohl government refused the right of double citizenship, basing its policy on the following pretexts: First of all, people who obtain double citizenship will also acquire more rights when compared to German people. Secondly, the double citizenship right might be abused by certain people, which would cause international problems. Because of such discussions, the government harshly opposed to amend the law. The issue was then dealt with the SPD / Grünen government.

This vague situation has increased the gap between the reality and policies, causing further social conflicts due to the unsuccessful policies failing to properly deal with the realities of the immigrants. In the end of these years, the SPD and the Greens Party criticized the immigration policies and the discussions on the multicultural model of society have entered into Germany's political agenda.

3.1.5. Post-1998 and The Impact of the Drafted New Immigration Law

After the 16-year Kohl government was dissolved in 1998 and replaced by the SPD / Greens government, new political openings in the country's immigration policies have been observed. The coalition of SPD and the Greens Party, which had previously used the term "immigrant" instead of "foreigner," criticizing the absolute immigration policies and understanding of nation state of the CDU/CSU, prepared a new program including its plans to prepare new immigration and citizenship laws. In the coalition agreement, it was officially stated that Germany is undergoing an irreversible process of immigration. The same agreement underlined the necessity to prepare an anti-discrimination law as part of the immigration policies.

The first move of this coalition government was to amend the citizenship law which was in force since 1913 (the times of Kaiser Willhelm II) with the aim of improving the integration policies. With this amendment, the right of double citizenship has also begun to be discussed. Under the old citizenship law, most of the immigrants were not permitted to become German citizens unless they forsake their first citizenship. While 600 immigrants of total 1000 obtained the citizenship right in Sweden and the Netherlands between 1985 and 1995, this figure was 50 of 100 in Germany for the same period. The number of the immigrants who obtained the citizenship right in Germany during these 10 years was equal to the number of immigrants who acquired the same right in France in only one year. (Meier-Braun, 2002, 94)

Despite all the efforts by the SPD /Greens coalition government, the situation regarding the double citizenship issue could not be changed. CDU's campaign of "*Ja zum Integration – Nein zur Doppelten Staatsbürgerschaft*" (Yes to integration, No to double citizenship) received great interest and were largely supported by the German society. Therefore, the government made concessions from this issue and the citizenship law excluded the right of double citizenship with certain exceptions. The CDU campaign caused these developments and played an important role in the rise of the xenophobic and racist movements.

Despite all deficiencies, this law which was put into force on January 1, 2000, is regarded as a turning point in Germany's history of immigration, since it accepts that the citizenship right is a land-based right, not a kinship-based one. Under this law, Germany accepted the children of the immigrant families (if one of the parents has the permanent residence right) as natural German citizens. This policy differs from the classical German definitions of nation state and national identity, by describing the term 'citizen' as the people who were born on the same lands. The law has granted the immigrants with the right to apply for obtaining the German citizenship, who have been living in Germany for at least eight years and who were not legally punished for a predetermined period of time. The table below displays how this process progressed in years and how it accelerated after the law has become effective in 2000.

Table1: The number of foreigners who became German citizens between 1994 and 2000

Year	Foreign Population	Percentage of those accepted to citizenship	Number of acceptances
1994	6.990.500	0,88	61.709
1995	7.173.900	1,00	71.981
1996	7.314.000	1,18	86.356
1997	7.351.500	1,13	82.913
1998	7.319.600	1,46	106.790
1999	7.336.100	1,95	143.267
2000	7.296.800	2,56	186.691

Source: The State Statistical Institution Data (*Statistisches Bundesamt*)

3.2. The New Immigration Law

The program of the SPD /Greens coalition included a number of plans on preparing a new immigration law as well as a new citizenship law. However, the same success could not be achieved on this issue. Although this law has many times been discussed at the German Parliament and amended at the reconciliation commissions, it has not yet become effective. The main reason behind this failure is that under the new law Germany will have to accept to make certain radical amendments on its 40-year immigration policy, which would mean that the country will be obliged to proclaim itself as an immigration country. It will be proper for us to present the chronology of this law which is a hard political problem for Germany.

3.2.1. The Chronological history of the New Immigration Law

September 22, 1998: The establishment of the SPD / Greens coalition government

January 1, 2000: The new citizenship law becomes effective

July 4, 2000: The establishment of the commission on immigration
August 3, 2001: Otto Schily's, Minister of Interior Affairs, presentation of the new immigration law draft
March 1, 2002: The ratification of the new immigration law at the Parliament
March 22, 2002: The new law is voted in *Bundesrat*
June 20, 2002: The president (*Bundespräsident*) Johannes Rau ratifies the law
December 18, 2002: The Supreme Court (*Verfassungsgericht*) abrogates the implementation of the law
January 1, 2003: The new law would become valid if its implementation was not abrogated
January 15, 2003: The government brings the law back to the parliament's agenda without any modifications
March 13, 2003: Discussions are held in the Parliament and the law is ratified again
March 14, 2003: The law is rejected in *Bundesrat* again.
May 8, 2003: The law is re-discussed in the Parliament and it is ratified again

The new immigration law was ratified by the Parliament (*Bundestag*) three times but was rejected in the states' parliament, (*Bundesrat*) whenever it was debated. Due to this fact, it was sent to a reconciliation commission. The law was accepted in *Bundesrat* for the first time but then, upon a claim that the voting in *Bundesrat* was faulty; its implementation was abrogated by the Supreme Court when the error in the voting was found. The faulty practice in the voting process stemmed from the situation of the Brandenburg State. Brandenburg had a coalition government of CDU and SPD. When a voting is held at the federal level, the decision of a state should be either "yes" or "no" but in this case there were two different votes from Brandenburg. The Labor Minister Alwin Ziel from SPD voted "yes" and the Internal Affairs Minister Jörg Schönbohm from CDU voted "no" (<http://www.bundesverfassungsgericht.de/pressmitteilungen>).

After being voted at the Parliament and approved for the first time, it was sent to the assembly of states (*Bundesrat*) where it was again approved and then sent to

the President. However, the implementation was afterwards abrogated by a Constitutional Court verdict and sent back to the Parliament. The Parliament re-approved the law, but this time the assembly of states rejected it. The law, which was voted at the Parliament in May 2003 is now in the hands of parliamentary reconciliation commission. For the new law to become effective, it should be ratified in both parliaments and should also be signed by the President.

The latest title of the law was: "*Gesetz zur Steuerung und Begrenzung der Zuwanderung und Regelung des Aufenthalts und der Intergration von Unionsbürger und Ausländer* (The law on the regulation and the limitation of immigration and on arranging the situations of the foreigners or the EU citizens' integration process)".

3.2.2. Corollaries and the Content of the New Law

There were of course certain motivating reasons for the new government to amend the immigration policy. The most important motive was that both economic and demographic indicators showed that Germany needed more foreign immigrants.

As summarized by the commission which prepared the law, there are many other reasons to prepare such a new law. Some of these reasons were as follows: the current laws of foreigners fail to organize the process of immigration; there is a need to take further measures to crack down on the illegal immigration; the institutions and authorities related to the issue of immigration should be redefined; Germany's laws on immigration and foreigners should be harmonized with the European Union standards.

Since we look at the issue from a point of view within the discussions on Germany's position as an immigration country, we shall underline the importance

and effects of this law. This new law is of importance since it also deals with such critical issues as the problems of refugees, the illegal immigration and harmonization of the German laws with the EU standards. What the law has so far brought about and contributed to the recent discussions on Germany's position among the immigration countries are significant since they are directly related with our main question "whether or not Germany is an immigration country."

One of the most important objectives of Germany's new immigration law is to offer a number of effective measures against the problem of illegal immigration. There are three different immigrant types which are handled by different criteria principles. Since the issues of the principle of the family reunification and the political asylum are protected and regulated by the international laws and institutions, the immigration countries cannot deal with them merely in line with their economic needs and the economic analyses of profit-loss. However, they have the opportunity to regulate these issues with their own laws, bearing in mind their importance in the international arena.

On these issues, upon the call of Otto Schily, the independent Commission on Immigration was established with 21 members under the presidency of Prof. Dr. Rita Süßmuth on July 4, 2000. Representatives from trade unions and scholars as well as representatives from a number of immigrant associations took part in the commission. Vural Öger (the owner of the Öger-Tours tourism company) from Turkey was also a member of the commission.

The expectations of the commission can be summarized as follows: to satisfy the needs of the business, to find a solution to the problem of aging in population, to eliminate the problems which emerged due to the insufficiencies of the current law, to re-regulate the issue of refugees which has long been on Germany's political agenda, and paving the way for the European Union's objective of developing "common laws on immigration and refugees." Fighting against the illegal

immigration and the integration problems that the immigrants faced were also on the agenda. Along with trying to prevent the unwanted immigration and trying to solve the integration problem of the current immigrants, the new law also recognized Germany as an immigration country.

The above mentioned points which we take from the statements of the commission stressed the fact that Germany is an immigration country once again. In the report prepared by the commission this fact is explained by some statistics. Since 1954, 31 million immigrants came to Germany; 22 million of them left Germany after a while. Today 7.3 million of these population live in Germany and this figure constitutes 9% of Germany's population. Some 40% of the immigrants in Germany have been living there for 15 years.

As the commission also stated, there had been no serious work, research or debate about this subject since 1973, when the arrival of immigrants was stopped. The debate on "Green Card for highly qualified computer specialists" in 2000 was also an extension of the absence of such a concept which makes it possible to bring foreign workers to the country.

When computer sector, investing in Germany, had openly expressed that the country needed the computer specialists and that the sector failed to satisfy this need from the domestic workforce, the Green Card system was also applied for a brief period as a method to attract such experts to the country. Due to the lack of necessary regulations and insufficiency of the current laws, the necessity to properly regulate such immigration was one of the significant motives behind the efforts on preparing a new immigration law.

It is now necessary to analyze the criteria of an immigration country by looking at the reasons requiring immigration in order to discuss our main problem.

The lack of workforce as a reason requiring immigration (the workforce deficit in economy)

When both analyzing the classical immigration countries and Germany's own immigration history during the years the country received large masses of immigrants, we see that these countries needed the recruitment of foreign workers to improve their economies and increase their social welfare. The main motive behind today's immigration is again to help the economies of these countries to improve and consequently to contribute to the betterment of the social welfare. Germany took this fact into consideration when preparing its new immigration law. The first provoking statement came from Prime Minister Schröder at a computer fair as follows: "Germany needs computer specialists. Due to the lack of highly qualified employees among domestic workforce, many computer companies need such people to employ." Although the rate of unemployment is 10% in Germany, the domestic workforce fails to meet this need. Despite the opposition by the German society, the politicians and economists underline the fact that the unemployment stems from the improper economic organization of the low qualified and unskilled workers. Therefore, the current unemployed population in Germany cannot meet computer sector's need for experts. (Greifenstein, 2001: 23) The only way to reduce the rate of unemployment is described as attracting highly qualified workers to the country.

Developed countries resolved such economic problems by investing in the countries where there is a sufficient number of workforce, where the costs of doing business is also low compared to their countries. However, in Germany the factories were closed and the rate of unemployment increased. In these countries which suffer from the problem of unemployment, the studies of research and development are placed special attention, which are required for the improvement of the economic production. For this reason, the country urgently needs a highly qualified workforce such as computer specialists and educated managers.

On the other hand, the report written by the commission, which also prepared the new law, underlined that certain measures must be taken to prevent any possible social conflicts between the unemployed and the immigrant workers. It is also stressed that the politicians should explain the German society the possible positive contributions of the foreign workers to the country's economy and tell the German people that the arrival of these people will be a solution to the high rate of unemployment. (Immigration Commission Report, 2001)

Another immigrant group that we shall deal with in this section is the foreign investors who are expected to come to Germany. The new law described these people as investors who will contribute to the revitalization of the German economy by investing in the country, which will also cause the establishment of new working areas, leading the high unemployment rate to decrease. The law also stresses that the German government should develop and pursue new incentive policies to attract more foreign investors to the country. In addition, more effective integration policies are also needed.

Germany urgently needs highly qualified workforce. It does not seem possible for the country to immediately train such people, which is why the proposal by the opposition parties CDU and CSU that the German government must take measures to educate and train high qualified personnel from the unemployed in order to prevent new arrivals of foreign workers to the country is not a realistic suggestion. Such highly qualified personnel cannot be educated and trained in short periods of time and the current level of education of the German unemployed is insufficient for such an immediately needed education.

To attract such highly qualified people to Germany would be much more difficult for the German government than it was in the past, since the characteristics of these immigrants are quite different from those of the foreign workers which arrived in the country in 1960s. They are qualified personnel who have high status

occupations with satisfying amounts of salaries in their own countries. Besides, many countries which are willing to receive immigrant workforce also demand such qualified people. Which is why, the new immigration law often underlines the fact that Germany should develop more incentive and attractive integration policies for these highly qualified people.

Aging

The ratio of the old in its population is quite high in Germany, and the problem of aging has important effects on the business market in the 21st century. It also has adverse effects for the German society, and unless necessary precautions are immediately taken, this is very likely to cause more serious problems in the future.

Germany's structure of population and its demographic conditions necessitate further immigration. During the last 30 years, the rate of birth kept decreasing. It is statistically assumed that if the rate goes on decreasing up to 2050, Germany's population will decline from 82 million to 60 million. In this case, the active working population will decline from 41 million to 26 million. Such demographic changes have serious consequences on the economy. There will be serious problems considering the labour market, the government budget, the social welfare system and the rates of debt per person. The decline in population will affect the macroeconomic balances along with the decrease in the demand. Less demand means less investment but more unemployment. (Immigration Commission Report, 2001)

The aging population will also affect the balance of the social welfare system (retirement, health insurance). Less active population causes more government expenditure on social security.

Under this law, Germany will take a number of effective measures to deal with the problem of aging in its population, also critical issue especially for Canada where the immigration is also seen as a resolution to deal with the social and economic problems caused by the high number of old population.

The immigration that Germany needs in order to deal with the problem of aging in the population, that is to say, to bring down the rate of old population, is not meant to be short-term, but on the contrary, should be a long-term one. From this point of view, Germany leaves behind the old mentality that the immigrants should come to the country for short periods of time in order to satisfy temporary economic needs. This old view shall be radically changed by the new law.

To use immigration as a resolution to both the problem of aging in the population and to the imbalance between the rates of birth and death is expected to bring about new discussions on the question “Who is German?” The German nationality which has always been described according to the bonds of blood, history, culture, language and religion, should now be redefined in line with the new understanding of land-based citizenship. The main political proposition of an immigration country is that its citizens are all the people living on the same land and coming together under the same constitution and legal regulations. For this reason, the expectations for a population increase and more balanced rates of birth and death together with the arrival of new immigrant workers should be considered as another important step on Germany’s path towards becoming an immigration country. In the context of nationality, describing the concept of “we” irrespective of the citizens’ ethnic origins is one of the necessary criteria underlined in the section of the immigration country.

Brain Drain Necessary for Technological Development

Information and technological development are two key variables for the German economy; because in this century information and the production of information have become very important for the developed economies. If Germany wants to keep its position in the world economy then it needs further flow of information and advanced technology. Such a process can take place with the international transfer of information and highly qualified labor.

Since there are four million registered unemployed in Germany, the efforts aimed at bringing the required workforce from other countries have been seen as contradictory, which have also caused a series of intense discussions in the country's political arena. However, these four million unemployed are not highly qualified workforce. In addition, the population flows caused by the enlargement of the European Union will not either be able to fill this gap. Immigration is an urgent and necessary way to supply the demand of the German economy in this respect.

The dependency of the German economy on the blue collar workers in the 1960s has been left behind in the 21st century and replaced by an urgent need for new highly qualified workers producing information and advanced technology. This is, in fact, regarded as the most important economic input needed by the economically developed countries in our century. Developed countries such as the US, Canada and Australia provide such high qualified people with tempting and attractive conditions and facilities.

The new immigration law in this context also sets out another objective to facilitate the educational and judicial procedures for the students who want to continue their higher education as graduate or postgraduate students in Germany. In addition, Germany is also planning to provide such students with various

opportunities to stay in the country after they complete their higher education. Therefore, the German economy is expected to partially satisfy its need for educated workforce from these students. (Immigration Commission Report, 2001)

Comprehending the fact that not only economic but also social conditions should be attractive for such educated people (integration policies, changing the negative attitude of the society towards foreign workers), Germany realized that it must redefine its integration policies and lay out new precautions and measures that it is planning to take for improving its social conditions and opportunities for the immigrants. Therefore the new German law focuses on these issues in detail. (Greifenstein, 2001: 33)

The commission which prepared the law also underlined the fact that the immigration will not be enough to fill the gap in the workforce, laying out necessary modifications in the fields of education and training.

3.2.3. The Implications of the New Immigration Law

Behind the intense discussions on this law and the failure of the government's plans to put it into force in the beginning of 2003, there lies this important fact that Germany will for the first time have to politically recognize itself as an immigration country. That's why the law still is at the hands of the reconciliation commission, waiting for new hot discussions.

Another significant feature of the law is that it stresses that Germany's past policies on immigrants failed to deal with the realities of these people and to organize the immigration process itself. This law is a criticism of the past policies pursued by Germany, which brought into agenda the fact that the country still needs

immigration due to both economic and social reasons. Although the law has yet to be put into force, we cannot deny that it has shed light on this fact. The main reason behind these recent discussions on the law is that Germany's current immigration laws are based on completely different ideas and approaches than those of the new one.

Consequently, most importantly, the law has caused new discussions on immigration policies in the German society, media, Parliament and the political parties. Since whether or not the law will be approved completely depends upon the parliamentary vote, the views of the political parties on the law are of great importance.

The debate on the new law is based on some critical issues and steps to be taken that is mentioned below. According to the law the first step to be taken in the integration process is to learn German. The law envisages that the residence rights of the immigrants will be evaluated after they learn German and provide the relevant authorities with the necessary documents of the language course they attended. Since the law put special emphasis on the language issue, it has also brought into the agenda that German courses should be organized and sponsored by the German state. The law proposes that the state and local administrations should allocate financial resources for this purpose. Political parties are currently discussing different aspects of this issue. The CDU and the FDP believe that the cost of the language courses should be shared by the immigrants and the state.

The law also aims to eliminate all judicial obstacles against the entrance of immigrants into the business markets. The work and residence permits are properly regulated so that they will not constitute any obstacles against the works of the immigrants. It is also observed that the law attaches great importance to the vocational education especially for young immigrants since it is well known that the

immigrants who fail to take part in the business markets will also have difficulties in integrating into the social life.

Underlining that there should be courses on Islamic religion in German at the schools, the law emphasizes that the German state must develop active policies in order to help different cultures and life styles to be accepted by the German society. This reminds us that in an immigration country the state should be neutral in its relations with both the majority and the minorities, and it also should take active roles to establish social harmony between different cultures.

What is stressed under the title of the integration policies in the report prepared by the commission which is the originator of the new law is that the citizenship right and the process of obtaining this right play significant role in the integration of the immigrants into the society. Germany's legal regulations express that the political participation is only possible with obtaining the citizenship right, which is why the process of obtaining this right for the immigrants is specially highlighted by the new law. The political participation is one of the most important instruments of the social integration as it was stressed in the concept of the immigration country.

The most important step that should be taken to promote political participation of the immigrants is to facilitate the citizenship process of the immigrants. If the right to elect and to be elected are basic citizen rights, the immigrants should become citizens so as to be able to politically express themselves. Therefore, the new immigration law proposes facilitating and encouraging the citizenship process of the immigrants as an integration policy. Since the new citizenship law is the first opening of the government which also prepared the new immigration law in their immigration policies, the new immigration law takes the citizenship law as its basis.

The bill covering such critical statements and emphases can be considered as the most important legal work of Germany's 60-year immigration history, which approaches the country as an immigration country with respect to the integration policies. Of course, country's 60-year experience and the awareness which has been formed out of the past practices that the German government needs stronger mechanisms to deal with the issue, has been influential in the preparation of this law. Since the economic refugees abused the law on refugees and the illegal immigration still remains as an important problem, the country has needed to prepare a new law to regulate and control these issues. In addition, the decisions made and the laws put into force by the European Union have also contributed to this process. The EU has a long-term objective to prepare a common immigration law. Under these circumstances, Germany also needs a new immigration law to harmonize its legal regulations with the EU laws.

The beginning of such a critical discussion in Germany has also given way to similar disputes in the European Union. Four prominent European Union member countries (the Netherlands, France, Britain and Germany) received a significant number of immigrants in the past and are continuing to do so. There has been a shift in the concepts included the discussions on the immigrants and the process of immigration itself after the concept of nation state has begun to be discussed in the EU and throughout the world with the advent of the globalization. In the past, this situation was handled by the law on foreigners; however after the above mentioned developments and along with the elimination of borders within the structure of the EU, the dispute has changed its course.

With mutual interaction, Germany has experienced a concept under the influence of these developments in the international arena. With its new law, it will try to take an active role in the similar discussions of the EU, which is why approval of the law is very important. Germany which will be obliged to implement the immigration laws to be approved within the structure of the European Union wants to determine its immigration policy prior to the Union's approval of its own policies.

The following section will focus on the positions of the political parties in the German Parliament in order to see the path the recent discussions follow.

3.3. The Positions of the Political Parties in the Debates concerning “Germany as the Immigration Country” and “The new Immigration Law”

3.3.1. The SPD

The SPD (Social Democrat Party of Germany) won the general elections in both 1998 and 2002 and established a coalition government with the Greens. The first program included the promise issuing a new citizenship law and a new immigration law.

The new citizenship law that became effective on January 1, 2000 was the first step taken by this government. After 16-years of the CDU/CSU administration, this step has been a big and important one for the immigration policies.

The SPD accepted the fact that Germany was an immigration country before coming to power and stated that ignoring this fact caused serious problems in German politics. The SPD, in 1993, openly stated that Germany had been an immigration country.

In addition to this, according to SPD the German economy needs specialized labor. If the demographical trend goes like this, the social system will lose its balance in 20 or 30 years. This shows that Germany’s need for immigration will continue in the future. Germany’s defining itself as an immigration country, and a new

immigration law are indispensable for both successful immigration policies and Germany's national interests. (<http://www.spd.de>)

The following statement made by Chancellor Schröder in 1995, when he was in opposition at the Parliament, should be evaluated within the framework of the new concept. The most striking point of this statement is that it emphasized that all people living in the borders of Germany must establish a partnership based on the constitutional rights and freedoms. This means that the concept of the nation state described in line with a common culture, language and religion should be changed in favor of the immigrants:

Schröder stated that concerning the citizenship rights, the replacement of the blood principle with the territory principle is the right step to take for a modern Germany. He said that in accordance with the Constitution and the laws; this principle should be valid for everyone who was born in Germany and who lived in Germany for years. Thus, dual citizenship should not be prohibited because it prevents the integration of the immigrants into the German society since it sees them as foreigners rather than citizens. He pronounced three important steps to take for the cohabitation of Germans and non-Germans:

- Every individual, both German citizens and non-German citizens, living in Germany should acknowledge the constitutional order and abide by the Constitution.
- Constitutional arrangements should be respected.
- If one wants to stay in Germany then he should be able to speak German. (Der Spiegel, 05.04.1995, page 111).

These criteria which described the conditions of a successful cohabitation and sound relations based on the principle of equality should be regarded as Germany's

first political statements on the acceptance of country's new position. The party program of the SPD covers another significant issue, namely the immigrants' right to elect and to be elected: 'They should be able to take part in the local elections' (Grundsatzprogramm vom 17. April 1998). In addition, in its party program, the SPD authorities emphasize the importance of solidarity among different cultures and state that the situation of immigrants should be improved, (Wollfs, 2001: 12)

The SPD, as the major coalition partner of the government is both the architect and the advocate of this law. The bill which was on the government program of the SPD has provided an important opening for the new policies after the CDU/CSU governments. Although this was started by the insistence of large companies and the labour market, it also fulfills the needs of the 21st century's multicultural and pluralist societal structure. Between these two approaches (the employers' workforce demand, and the requirements of the discussions on multicultural societies in the 21st century), the SPD emphasizes that the competitive power of the German society should be maintained and that new immigrants will positively contribute to the country's fight against unemployment. While the Greens, the other coalition partner, stressed upon the political dimension of this new law, the SPD took it as a practical means in order to satisfy the needs of the economy and the demographic structure.

Although the SPD is a social democrat party, it has launched initiatives to reduce the size of the social state. For example, it decreased the amount of financial assistance for the unemployed. Among the objectives of this law is to maximize the efficiency of immigrant workers and to minimize the burden of the immigrants on the social state. Besides the law which brings more freedom to the immigrants, it also restricts the rights of immigrants regarding the social state. Therefore, the law also embraces general policies of the SPD/Greens government.

The minimization of the social state and modifications in the laws on health and retirement, by the social democrat party, caused problems within the SPD. It was argued that the minimization of the social state by its supporters confused the debate between the leftists-social democrats and rightists-liberals. Thus, there are still discussions about the new law, asking whether it is a political opening or a practical solution for market's needs.

3.3.2. The CDU

In all his declarations concerning immigration policies, Manfred Kanther, the former Interior Minister from the CDU (Christian Democratic Union of Germany) emphasized that Germany was not an immigration country and an immigration law could not be an issue for the government. In an interview he made with Die Welt on the 28th April 1995, he explained the position of the CDU about "foreigner policies" as follows:

It is a mistaken assumption that Germany will need active immigration policies in the near future because of economic conditions. Germany has a high unemployment rate and it doesn't need immigration, especially in the new federal states (the ones that joined Germany after the tearing down of the Berlin Wall) where unemployment rates are higher. How is it possible to explain to the unemployed there that Germany will allow immigrants because the country needs labor? In the current situation of the German economy even opening up new workplaces cannot solve the unemployment problem. Under these circumstances allowing immigration is not understandable. At the same time many places are downsizing because computers replace human labor. The ones who demand immigrants first should answer how they will finance their livings. Immigrants will need jobs, and to find jobs they have to stand in a line of 3.8 million unemployed people. If they take the jobs then it will be unfair to the other unemployed. In this case new immigrants will face unemployment and be dependent on social aid. This will result in declines in the social aid funds. It is easy to make this observation by looking at statistics. In 1980, 70.523 (8.3 % of the total) foreigners were receiving social aid; in 1988 the number was 713.235, the amount climbed up to 34.8% in

1992. Numbers tell us how many more foreigners Germany needs.
(<http://www.spiegel.de/politik/deutschland>)

Manfred Kanther is not only talking on his account, he is also presenting the views of the CDU's foreigners policies. A CDU publication says that "Germany is not an immigration country and does not want to become one" (January, 1997, <http://www.cdu-wiesbaden.de/wiruns/>). With this statement, they made their position on immigration clear.

In addition, in the declaration related to the immigration subject, issued on November 6, 2000, the CDU showed that its position is different from other political parties. According to CDU the only way to be able to build up effective immigration and integration policies is to define the national and cultural identity in the possible clearest way and acting with that consciousness. Germans define themselves with their common history, constitutional and social order and culture. For them German culture is based on the socialization process of Europe; on its historical background, on its language, art, and understanding of democracy and freedom. Germany belongs in the Christian world in terms of value systems and she is a part of the European culture.

According to the CDU, the ones who have the above mentioned features can be the constituents of the German nation. According to this party, the mission of the German nation is to carry the responsibility of the past together and to fulfill the responsibilities for the future all together as a whole nation. With their own words, "the most important milestones in the unified Germany are the values we inherited from the past and our determination to live freely and together."
(<http://www.cdu.de/politika-z/zuwandeung>)

The CDU is the only political party emphasizing Christianity. As declared by the CDU, its mission as a political party is to play an active role in organizing the society around Christian values, which are the basis of the society. With their own words: “In the face of aggressions towards these values, one should protect and improve democracy, by means of these Christian values. This understanding separates us from socialist, nationalist and liberal ideologies. The bases of our policies are Christian values and other values such as freedom, solidarity, and equality springing from them.” (<http://www.campus-germany.de/german>)

The CDU also states that they also respect the differences in needs and concerns of the individuals and see it as their duty to protect these differences because that is the basis of free democracies. They think that this attitude gains importance for regulating coexistence and serves as a milestone for successful immigration and integration policies.

How the CDU regards the concept of “we” is seen in these statements above, an approach which has been opened to discussion both theoretically and in practice. Explaining the integrity of the EU as a partnership based on the Christian values, the CDU assumes a pessimist stance on the issue of the integration of the different cultures and religions into the German society. According to the CDU, the integration of the EU countries is possible since they have gone through very similar civilization processes based on common Christian values. This stance constitutes an example for the political attitude which is against the acceptance of Germany as an immigration country. The widespread acceptance that “Germany is not an immigration country,” which dominated the country’s political arena since 1998 as we see in the section of Germany’s history of immigration has always been the ideological basis of the immigration policies of the CDU/CSU governments.

How the 16-year government (1982-1998) dealt with the integration policies which play a critical role as the litmus paper of the immigration countries was

mentioned in the section of Germany's history of immigration. In addition to this, if we look at what the CDU understands from the concept of integration in general, we can once again see that their understanding is incompatible with the concept of the immigration country.

The CDU defines the concept of integration as follows: "to feel connected to the new country's social, economic, religious, cultural and legal order with keeping one's own identity." This definition tells us the position of the CDU very well. According to the CDU, present social order is not open to discussion, and it cannot be changed. Integration into the German society means accepting its rules without questioning them. A successful integration policy should develop Germany and enhance its competitive power at global level. By looking at these definitions, one can observe that the CDU is concerned with protecting the national interests instead of assuring a peaceful, just and equal coexistence.

CDU's policies encourage admitting immigrants from the EU countries that have relatively close cultural ties with Germany and discourage admitting immigrants from the third world countries. The CDU defines the German culture as a dominant culture (*Leitkultur*). Other cultures might be harmonized with the German culture by the help of successful integration policies, differences will fade away as time passes and other cultures will become closer to the German culture day by day (<http://www.cdu.de/politika-z/zuwandeung>).

CDU's policies on integration do not allocate any space for the perspective of the immigrants. The immigrants are treated in a way that will work only for the benefit of German economy and the existing social order. Immigrants are seen like subjects, instead of actors. The expectations of the immigrants from Germans and Germany are not debated. In addition, the obstacles constituted by the German side are not debated. This also shows that the main objective is to achieve Germany's national interests, according to the CDU. The CDU held signature campaigns against

the application of the Green Card when Gerhard Schröder opened a debate concerning this practice. The CDU organized a campaign against the migration of computer specialists from India to Germany. “*Kinder statt Inder* (kids instead of Indians)” was the main slogan in this campaign. The CDU opposed to import labor and proposed to educate the children on the sectors which will require new workforce in the future. The CDU also supports to be selective on the immigrant countries. According to the CDU, such a selective policy will make the integration process easier, which implies that the Christians will better integrate into the German society, however, Muslim community, such as Turks, are less successful in integrating themselves into the German society (Forschungsinstitut der Friedrich-Ebert-Stiftung, 1994: 38).

3.3.3. The CSU

The CSU (Christian Social Union of Bavaria) participated in the elections in alliance with the CDU and is known as the small partner of the CDU/CSU Union. Although the CDU/CSU took part in the elections as a union these two had different policies on certain issues.

A statement made in the local party assembly of the CSU in January 13-16, 1992 is very important since it displayed the approach of the party on the issue of multicultural society. The perspective of the CSU on this concept is as follows:

This statement argues that every society has certain limitations on the tolerance about and the conformity with the foreigners and their life styles. According to this statement, these limitations, which must be taken-for-granted, have nothing to do with the level of cultural and social development. Discussions on multicultural society pose a threat to the stability of Germany. (<http://www.spiegel.de/politik/deutschland>)

The position of the CSU on the issue was made clear in their 60th party assembly meeting on November 22-23, 1996. This meeting, it was stated that Germany is not an immigration country and it does not need an immigration law. In the same meeting, the CSU declared that they refused both the “dual citizenship” and the right to vote of the immigrants from the non-EU countries in the local elections.

Like the CDU, the CSU, the party of Bayern, also believes that the values of Christianity are the most important values that constitute the German society. Tolerance and humanism are the necessities of cohabitation. The party clearly expressed in its statements that it is against the concept of the multicultural society by stressing that the values which do not include tolerance and humanism, two basic tenets of a peaceful cohabitation (which are not present among the non-Christian cultures according to them), cause serious social conflicts. The CSU openly declared in its party statements that it is against multicultural society.

The CSU defends that the uncontrolled immigration will threaten the internal peace of the society and this will prepare a convenient environment for the rise of the ultra rightist powers.

The CSU, in its declarations by using more radical and sharp statements than its partner CDU, explained not only its position concerning the immigration law but also its policies on foreigners. One of the important points that should be captured here is that the CSU attaches special importance to the protection of the Christian values, and emphasizes that the immigrants should be selected according to this framework, namely from the EU or EU candidate countries. If other countries outside the EU will be taken into consideration, the immigrants have to be chosen from the Christian countries.

The CSU pursues populist policies manipulating the unemployment in the country. It argues that the vacant positions should be given to the unemployed people and these people should be educated in accordance with the relevant occupational requirements. However, as we previously pointed out, the desired qualified labor cannot be supplied from the present unemployed in Germany, and it is not possible to properly educate people in the short run. In order to gain the votes of the unemployed population, the CSU claims that the arrival of the new immigrants to the country will increase the rate of unemployment, an understanding which confronts the unemployed people and the immigrants/ foreigners.

The integration policies of the CSU are stricter than those of the CDU. It allows the foreigners preserve their identity and culture only in their private spheres. In public sphere, German culture will be dominant. In this respect, the positions, expectations and the feelings of the immigrants are not taken into consideration. This point of view is similar to that of the CDU in the sense that they see the immigrants as subjects that serve the economic interests of Germany. Immigrants are only perceived in terms of economic benefits and their social and socio-political needs are ignored. This is the understanding that causes the real disharmony and obstructs the integration. According to the CSU, immigration must be strictly controlled and limited.

3.3.4. Bündnis 90/Die Grünen

The Greens is a political party that accepts Germany as an immigration country, accepts the need for a new immigration law and defines itself as the advocate of the “multicultural society”.

In April 1997, The Greens brought a draft law to the parliament. The draft emphasized that Germany had been an immigration country for the last 20 years and

a new immigration law should be prepared. The Greens contributions to the preparation of the new law during their coalition with the SPD are considerable.

In the declaration issued in the party assembly meeting which was held on November 13, 2000, the party stated that: “The political recognition of Germany’s status as an immigration country is urgent. This recognition will have very important repercussions for the designation of the future social order” (<http://www.grünen.de>)

It is important to evaluate the approach of the Greens with respect to this law in particular and the immigration policies in general, so as to better understand their position within the recent discussions. The approach of the Greens on the issue of the immigration can be summarized as follows:

- Regulating immigration will be an important political issue in the near future. Speaking about immigration is speaking about the future of Germany and the future of Europe. Thus, immediate political and social expansions are required concerning this issue.
- “Multicultural democracy” is the key concept to regulate immigration. Multiculturalism and harmony are the main components of this concept.
- The constitutional law guaranteeing the freedom of every culture in Germany is a proof of Germany’s being an immigration country and its acceptance of social and cultural changes. Cultural diversity enriches and develops Germany.
- For a long time the CDU/CSU, the FDP and some part of the SPD have ignored the fact that Germany is an immigration country, and obstructed the regulation of the coexistence. Now they cannot deny the consequences of this fact.
- The CDU/CSU believes in a cultural hierarchy but all cultures are equal. Integration should not mean assimilation. Regulation of immigration is a difficult and a complex task, but at the same time, it is a great opportunity

for social and cultural development. A “multicultural society” is a concept that includes the peaceful and equal coexistence of different cultures.

- Main tenets of a multicultural society are human rights agreements and the basic principles laid out in the European Constitution, such as democracy, equality among all humankind and equality between sexes...

The approach of the Greens based on the idea of multiculturalism resembles the model of Canada. Canada also described the multiculturalism as the official state ideology. The proposal put forward by the Greens takes Canada as its role model. However, we cannot say that the Greens, as the small partner of the coalition government, were considerably active and effective in the preparation of this law.

It is worth mentioning that one of the most important integration policies of the Greens is to grant the immigrants with the right to participate in the political life, via the rights of election and being elected. According to the understanding of the Greens, human beings identify themselves with the place in which they live when they are represented in the organization, arrangement and functioning of the society which they form. For this reason, the political participation and taking part in the social processes are two important requirements of the integration. In this context, the right to elect and the participation of the nongovernmental organizations into the decision-making mechanisms are of great importance. In Denmark and the Netherlands where the immigrants are granted with the right to participate into the local elections, the positive influences of this practice on the integration policies are observed.

Another important perspective is that the immigrants need an anti-discrimination law (*Anti-Diskriminierungsgesetz*) in order to be able to protect themselves from discrimination and maltreatment.

The Green Immigrant Policy tries to recognize the criteria for the immigration country, or in other words, tries to form a policy of immigrants within this conception, as discussed in the previous sections of this study. The Greens are among the leading political parties as they have set up a new discussion of multicultural social structure concerning the policies on immigrants by highlighting a pluralistic and democratic participation, supporting that the issue of immigrants cannot be resolved within the scope of a classical nation-state conception.

Furthermore, the Greens state that in order to make Germany appealing for qualified workforce, Germany is supposed to become a democratic and pluralistic society with a redefined law of immigration. In other words, they emphasize that there is an urgent need for a new immigration law where the immigrants will feel confident so that they will prefer Germany to the US or Canada. On the other hand, this immigration law stemming from economic needs should abstain from one-sided benefits. In addition to determining the needs of Germany, the life conditions of immigrants should be improved, and the process of integration of their families should be paid special attention. They should be provided with the means to participate in not only economic but also social and cultural life as well. (Westphal/Stoppa, 2002: 41)

From this point of view, the immigrants are no longer considered to be economically valuable subjects only but parts of the social dynamic. The Greens, which do not have absolute and restricted definitions on the German culture and German identity drew the framework of the new immigration law from a political perspective based upon the idea of a multicultural society where all identities are considered to be equal.

What is exceptional in their situation when compared with other political parties is that they offer anti-discrimination law as a necessity for integration. The purpose of this law is to assure foreigners that the state and its institutions stand

against racism, maltreatment and discrimination so that they won't feel defenseless when faced with such issues. This stance defends that the state is a neutral mediator between the majority and the minorities. From this perspective, the state should provide the foreigners with the same judicial mechanisms of the majority.

3.3.5. The FDP

In order to understand the position of the FDP (Free Democratic Party), it would be helpful to give a brief summary of their June 3-5, 1994, Rocstock 45th General Congress Declaration.

The declaration stated that Germany is a de facto immigration country and this fact should be immediately recognized, and new regulations are required to control and limit the immigration. With regard to this statement, it can be said that the FDP supports the new immigration law. In the same declaration, the FDP acknowledged that Germany will need immigration because of demographic and economic reasons in the future and that Germany needs a new immigration law. The FDP supports taking precautions in order to better the social and economic status of the foreigners and says that a new immigration law is indispensable also for integration policies. (taz, 1994: 3)

For the FDP, immigration occurs due to economic reasons, thus it has to be regulated according to economic rules. It aims at minimizing the role of the social state by doing so; this can be interpreted as a classical liberal understanding.

According to the FDP, the most important aspect in regulating immigration is the optimal transfer of the required labour to Germany. In this respect, the FDP wants to limit other categories of immigration (family reunifications, asylum

seeking). The FDP is the only party to advocate the quota system for other categories. It argues that various categories should have their own quotas in the annual amount. These quotas should not be exceeded, and they will determine whether or not an immigrant can bring his family. However, defining the politically persecuted people and their families as “non-profit” immigrants as well as limiting their rights are against the international agreements.

The FDP proposes to use the models applied in the classical immigration countries. Their proposal for residency is similar to the US model. The FDP believes that the immigrants should not be a burden for the social state, an understanding also stemming from a liberal view.

3.3.6. The PDS

The PDS (Democratic Socialist Party) is a small party, which is represented in the parliament with one deputy after the 2002 elections. Immigration has never been a major issue on its agenda. This party is mainly involved in the problems of East Germany, such as unemployment in the new states and the inequalities between the Western and Eastern states, after the unification of Germany. The PDS does not have a significant role in the preparation of the immigration policies in the parliament.

The party program of the PDS has not given primary importance to the immigration, so the statements of the PDS concerning immigration are scarce. Petra Pau, a PDS deputy, in a press conference on November 16, 2000, declared the theses of the PDS (Neues Deutschland, 16.November 2000) as follows:

According to the PDS, Germany is an immigration country. This concept describes the reality and it is necessary for the establishment of the required social, cultural and political life. Nevertheless, laws regulating immigration fail to reflect this reality. Present laws are not democratic, are complex and bureaucratically obstructive.

The PDS supports a more clear and transparent immigration policy that aims at establishing the legal protection and societal equality of the immigrants on the one hand, and the creation of the sense of public approval for Germany's situation as an immigration country. In a general sense, anybody who has the legal right and who wants to immigrate to Germany should be able to do that. Criteria such as quotas, "useful foreigners" and "benefitable foreigners" are not humanitarian. (Wollfs, 2001: 53)

Every immigrant should be given the chance to integrate into the society. Social integration should never mean assimilation or becoming the same. Integration is a two faced process. Both the immigration society and the immigrant are responsible in this process. In this respect, The PDS refuses the debate on "*Deutsches Leitkultur*" because it is a view that harms the peaceful coexistence of different communities. This view argues that if the German culture is considered to be above all other cultures in Germany, this might be a threat for all other cultures.

Thus, the PDS advocates a policy that sees all cultures equal and proposes to treat their members equally. By this way, combat against the ultra rightist movements and racist violence could be overcome, or otherwise ultra rightist movements will go on to define themselves as a part of the official policies.

The PDS has a different standpoint. By not recognizing the need for immigration for the priority of economy. The PDS is the only political party,

remarking that “migration” should be seen as a basic right in a proper manner that the people who want to migrate to Germany should be provided with the opportunity to do so. The PDS asks for equal treatment of the immigrants as soon as they arrive to Germany. PDS advocates such ideas are useful not only for improving the social status of the immigrants but also for fighting with the ultra rightist movements.

The PDS also proposes to take assistance from foreign nongovernmental and refugee organizations to improve the social participation of the immigrants.

Strengthening and protection of the right to asylum is insistently emphasized by the PDS. With the perception of immigration as a right without considering demographic or economic reasons.

3.4. Conclusion

In this section, we analyzed the immigration history of Germany and the processes that the country underwent by which it has eventually become an immigration country. Germany’s main contradiction is its permanent refusal – as its official political stance - of its position as an immigration country during the immigration history. Germany’s history of immigration reflects the contradiction between these two facts. In fact during the period after the German government’s ban of the recruitment of further foreign workers in 1973, it continued to receive a significant number of immigrants. Maybe this is also why Germany has been cited in the relevant literature as a “de facto immigration country” and “a new type of immigration country,” which displays a special example with respect to both its realities and relation with these realities. (Wilamowitz-Mölandorf/Wolffs/Augustin, 2001: 30)

After the governmental change in 1998, the beginning of the discussions on a new immigration law due to a number of economic and demographic reasons in Germany which does not resemble classical immigration countries with respect to its peculiar process of immigration, should be seen as a milestone in the history of the country, which paved the way for further radical changes. Despite the fact that whether or not the law will be accepted is still unclear, it would not be mistaken to remark that this new law is one of the most important building stones in Germany's history of immigration.

When we look at both the consequences of the law and the reasons which necessitated a new law, which are stated in the report prepared by the parliamentary commission as the creator of the text of the law, we see that it resembles the regulations and policies of the classical immigration countries. A number of similarities are as follows: the economy's need for educated, foreign and qualified workforce and the need for young people due to the aging population. In addition, with this law, Germany has included certain implementations of the classical immigration countries into its own immigration policies. One of these implementations is the scoring system (point system) which is utilized in the selection process of the immigrants. Germany has accepted that the immigrants do not come to its territories for short periods of time, and therefore more effective integration measures must be immediately taken, taking this fact into consideration.

When we stress that the political consequences of the law are very important it is to highlight the fact that under this law Germany will be for the first time officially accepting the current agenda and problems of being an immigration country.

There are two main political stances on the immigration issue among the German political parties. First, despite their different perspectives, the SPD, the Greens, the FDP and the PDS represent the same stance arguing that "Germany is an

immigration country, a fact which must be politically recognized.” Secondly, the CDU and the CSU represent the stance claiming that “Germany is not an immigration country, but there is a need to make new regulations on the concept of the foreigners, which must be dealt with outside the context of the immigration.” The discussions on the new immigration law which has become a political arena for these two different political stances, have yet to come to a conclusion. The tradition of the CDU and the CSU, as conservative approaches, express their devotion to the concept of the nation state. Their integration policies still use the term “foreigner” and their problems, refusing to open the definitions of “German” and “foreigner” to discussion.

CHAPTER IV

DISCUSSION AND CONCLUSION: GERMANY IS BECOMING AN IMMIGRATION COUNTRY!

The main focus here will be the possible changes that might take place in German immigration policies after Germany's defining itself as an "immigration country" officially. These are predictions generated from this study which claim that "Germany is becoming an immigration country" but this statement and its implications are still being debated in Germany.

4.1. Why is Germany an Immigration Country?

Social dynamics of becoming an immigration country were explained in the second chapter. They were; presence of an immigrant community in the country, and the continuous reception of immigration for various reasons.

By the year 2000, Germany's population is 82,2 million. The 9% of this population, which is 7,3 million, is immigrants. 4,5 million of the immigrants have permanent residence rights. The rest, 3,6 million immigrants, have been living in Germany for more than 10 years. In Germany, there are 10 million children and young people who are not German citizens. 1,2 million of them go to German schools. If we add 3,2 million Russian Germans (who became German citizens as soon as they got Germany, so they do not hold foreign passports) to the total number of the immigrants, the percentage of immigrants' population in total German population becomes 12% (Storz, 2001). These numbers show us how the number of

immigrants living in Germany today is considerable. In another census made in 1990, it was found out that 70% of the immigrants, who came from the countries that sent guest workers to Germany during 1960s, such as Italy, Turkey, Spain, Yugoslavia, have been living in Germany for 10 years. 52% of these immigrants have been living in Germany for 15 years (Schultze, 1991). These numbers tell us that the stay of these guest workers in Germany took more than 10-15 years and now they hold a different status than guest workers in German society, meaning that they are neither guest workers nor foreigners anymore.

Research on the number of immigrants in Germany showed that if today's numbers and their coefficients will continue to be valid in the next 50 years thus, the proportion between the number of Germans and immigrants will further change. In 50 years, 74 million German population will decline to 52 million and 25% of the population will be immigrants. 12% of today will rise to 25% with an approximate number of 16 million immigrants in Germany (Storz, 2001: 44).

12% of German population is composed of immigrants; also if birth and death numbers do not change in the following 50 years, this percentage will become 25%. This means that Germany has sufficient number of immigrants in order to consider its situation as an immigration country. Germany has to consider this "immigration country" concept not only because of the numbers given above but also because it can not integrate present immigrants into the society by defining them as "guest workers" or "foreigners". These immigrants live in Germany, this fact should be accepted and appropriate policies should be adapted by politicians if Germany is an immigration country. An important social dynamic making Germany an immigration country is that existing immigration policies are incapable of giving equal social and political rights to the immigrants living in Germany.

The most important reason of this is that because of demographic reasons and German economy's need for foreign labour, immigration is required. The new law

was also needed for regulating future immigration. The new law renders the 1973 decision null in a way because it declares that Germany is receiving immigration and Germany needs immigration. However in the new law, new immigrant categories are defined such as qualified labour, educated young, and investors. Also the new law wants to ensure that these new immigrants can stay in Germany for the long-term. This separates the new law from the former regulations and laws. Economically active population which is 41 million according to year 2000 numbers will decline to 30 million by the year 2050 (Storz, 2001: 29). This situation will change the balance of the social system for the worse and disturb the retirement funds, thus Germany needs young immigrants. The new law conveyed this need. Same need was a motivation for immigrant admission in classical immigration countries like Canada and Australia. This similarity is also crucial for defining Germany as an immigration country. Until now Germany did not materialize this understanding in its policies and remained as a *de facto* immigration country.

According to our theoretical framework, different aspects of immigration gained importance from time to time in the history. Push-pull factors (Lee) which is seen as the first migration theory, defined immigration as trade of labour between two countries and set the benefits and costs of immigration for both countries as the starting point. Immigration to Germany was also planned as a short-term economic act at first. In that time, other European countries were receiving this kind of immigration as well. Push-Pull Factors theory was able to explain the situation then, thus its starting point has been preserved in migration theories until today. Yet, during 1970s when immigrants started to settle down, benefit and cost analysis did not work to explain immigration and the problems it caused. During these years immigration became a social phenomenon. Also for Germany, it is stated that during 1970s and 1980s, immigrants gave the first signal of their long-term stay by bringing their families to Germany. Theoretical discussions were shaped by the developments. During these years, social status and legal definition of immigrants were the main topics in theoretical discussions.

Segmented Labour Market Theory's explanation of immigrants as the marginal workers working in the jobs that have low social status and its claim that economy needs this kind of workers is crucial to understand the formation of second class status in society. Foreign workers, who say that they worked in the worst jobs in Germany, also found themselves in a provoked social conflict and during 1970s and 1980s social conflicts were at the peak. When they decided to stay in Germany for a long time, new social problems such as identity problems emerged in Germany. As Segmented Labour Market Theory puts it, people started to criticize the system that enabled the inequality between the locals and the immigrants. This critique was also a critique of the understanding that sees immigrants as second class in society. This critique also implies that there is a difference between the nation-state understanding and the immigration country understanding.

Again, relatively new theories such as World-Systems Theory and neo-Marxism, claimed that problems caused by immigration were not stemming from the unpreparedness of countries but from the world-system and the nation-state understanding. This shows us that discussions about immigration were held at the systemic level during 1980s and 1990s. These years were marked by nationalist and racist attacks towards immigrants in Germany intensifying the discussions about immigration issues. After "guest worker" and "foreigner" identities, immigrants in Germany gained "Turk" identity as well. Turks were immigrants who had Turkish passports but settled down in Germany, and their national identities were at the heart of the discussions in Germany during these years. Also at that time, political discussions about the ways of establishing relations with different people in the society and about the establishment of equality under the rule of law, started to impose itself.

Lastly, "transmigrants" concept went beyond the Germans-Turks debate saying that there was no more a need for a distinction. The term "transmigrants" refer to different social dynamics formed by transborder economic activities of multinational and multilingual people. In order to understand these new dynamics,

this theory suggests that conceptions has to go beyond the nation-state. This paradigmatic change in 1990s and 2000s expressed itself by the term “German Turks (*Deutsche Türken*)” in Germany and it brought to the agenda the debate concerning Germany’s situation as an immigration country. Social dynamics, insufficiencies of immigration policies and this theoretical background dragged Germany into today’s discussions about immigration.

4.2. Immigration Policies in the Immigration Country Germany

We presented a detailed explanation of the process through which Germany became an immigration country in the “Brief History of Migration to Germany” (3.1) part. Despite the insistent claim that “Germany is not an immigration country”, Germany became an immigration country in this process. Yet, this reality was not supported by the necessary policies and Germany’s integration policies turned out to be unsuccessful, since they were rooted in the claim that Germany was not an immigration country and thus were not tangible. This process separates Germany from classical immigration countries. Classical immigration countries see immigration as a necessary means to maintain the economic and social balance but Germany was planning to send the immigrants back. In addition, the classical immigration countries differ from Germany in terms of state building and understanding of nation-state. In states like the US and Australia, immigrants are considered to be one of the constituent elements, but in Germany romantic nationalism have been strong. In Germany the debate on immigration opens another debate about the definition of nation-state, especially about the principles that are used to define the “German people” such as “common history,” “common language,” and “common religion.” Thus, in Germany the debate concerning the immigration country concept has many other dimensions, which make Germany different from the classical immigration countries.

We explained what immigration country concept means in terms of politics in the “Conception of Immigration Country” (2.2.) part. We also compared Germany’s current conditions with the criteria explained. Conclusions that can be generated from this comparison are that Germany does not meet the criteria of immigration country, and it should take some legal, political and social measures in order to find a solution to this problem. Legal measures should provide equality in front of law for immigrants in the first hand. This requires legal regulations concerning the residence and working permits. For example, if an immigrant comes to Germany by family reunification, s/he can get a working permit after residing in Germany for 4 years (Bade/Münz, 2000; 65). This is not equal treatment, this kind of inequalities and barriers should be eliminated. Germans and immigrants should be equal in front of the laws. This issue is related to the social status attributed to immigrants. Defining immigrants who settled down in Germany as “foreigners” is a barrier in front of legal equality. The problems discussed under the title of “The Principle of Rule of Law and The Policy of Providing Legal Equality” are not only stemming from the inequalities between the Germans and immigrants but also from the content of the definitions of being a “German” or a “foreigner”. Some rights and freedoms are there for Germans, and immigrants cannot benefit from those rights with their own identities because they are defined as “foreigners”.

The most important instrument for political participation, the right to vote and to be elected, is possessed only by Germans. According to the European Union regulations, EU citizens can vote in local elections in Germany but immigrants who have been living in Germany for a long time cannot vote in these elections. Political participation, which is one of the most crucial parts of social integration, is a right that can only be gained by becoming a German citizen. This situation feeds the social inequalities and obstructs the political representation of the immigrants. Political representation and equality is crucial for political participation. Thus, in an immigration country the immigrants should be able to vote and citizenship laws should be reorganized in order to enable immigrants to have the right to vote and to be elected. Germany took a positive step towards this with its new citizenship law in 1999, while replacing the blood principle with the territory principle.

Under the title of “Cultural Rights and Freedoms”, immigrants’ right to preserve and exercise their own different life styles is discussed. In this part, it is stated that majority culture is not superior to other cultures and ways for providing an equal cohabitation ground for different cultures were searched. Mostly language and religion are debated when it comes to culture. Bilingualism should be taken into account especially for the education of immigrant children. Native language education should be in the curriculum at schools. There are some elective Turkish lessons in some schools in Germany but this is exceptional, it is not a part of the education policies. If different cultures are recognized and not forced to take place in a hierarchy as majority culture or minority culture, then multicultural and multilingual immigrants will find the opportunity to express themselves in two different cultures. “Transmigrants theory” puts emphasis on this issue in order to establish a common social and political ground among people. In terms of the immigration concept, this means that the state should be equally distant to every culture and should not allow for a hierarchical order among different cultures. Thus, multiculturalism is an often referred term in immigration countries’ policies. Multiculturalism does not mean that every group of immigrants will be living in their own cultural ghettos. In Germany, immigrants exercise their cultural practices in their own neighbourhoods and do not reflect their cultural differences to other places (Kürşat-Ahlers, 1996).

“Anti-discrimination policy” has also become an important part of integration process as well as the citizenship law. The same relationship between integration, the facilitation of obtaining citizenship works for the anti-discrimination policy and integration; because with anti-discrimination policy the state prevents the discrimination against immigrants by individuals or institutions and protects immigrants legally. This legal protection refers to the fact that the state and its judicial organs engage themselves in a conflictual field that is peculiar to immigrants. This anti-discrimination policy is applied in England as well as in classical immigration countries. It has also been debated within the European Union and it has been decided that every member country should prepare a law concerning this issue.

Germany prepared the draft law and it was planned to be issued on June, 2003 but it has not been issued yet. Germany is the latest member country to have this law.

Germany's contribution to the criteria of the immigration country is still unclear because the new law is still being debated in the parliamentary commission. The new law is different from other laws because it puts emphasis on the integration policies and brings a new points system to be used for the selection of eligible immigrants. It is close to the immigration country standards in this respect. Its political expansions can be listed as follows:

- It proposes the acceptance of dual citizenship that will facilitate obtaining German citizenship for immigrants
- It emphasizes the need for an anti-discrimination law
- It emphasizes that if learning German is possible and obligatory for immigrants, then the first step in the way of integration will be accomplished
- It adjusts the understanding that in order to facilitate the adaptation process of immigrants, Germany needs far-reaching immigration policies
- It proposes that certain institutions can undertake the responsibility of informing and educating local people in order to improve immigrants' position in the society

These points show that the new law has a different understanding from other laws, which were aimed at diminishing the number of immigrants in Germany. But since the new law is not valid yet, it is not evident what will be the political implications, merely the propositions in the draft law give us an idea.

Now, we can move on with the question “What can Germany do after defining itself as an immigration country officially?” and “What should change in Germany?”. Germany, at first, should change its political position about defining the term “German”. By the year 2050, 25% of Germany’s population will be composed of immigrants, thus Germany should do this somehow, since a state can not define 25% of its population as “foreigner”, especially if most of these people are born in Germany.

As a second point, Germany should be more flexible concerning the dual citizenship issue. This is required in order to cover the realm of bi-cultural immigrants. In order to succeed in integration policies, these policies should be formed considering the immigrants’ status in the society and their future prospects.

In terms of right to vote and to be elected, immigrants should be given the right to vote in local elections like European Union citizens. Otherwise inequalities will be reinforced by Germany’s attitude because it gives the right to vote in local elections to EU citizens but not to its immigrants. There are two different inequalities here, one is between Germans and immigrants, and the other is between the EU citizens living in Germany and immigrants.

4.3. Last Statement

Germany, which has already become a *de facto* immigration country, faces some central problems to solve before being an immigration country, such as German nation-state understanding and institutions and opinions that represent this understanding. Thus, we can conclude that the debate about whether Germany is an immigration country or not is essentially about its ‘nation-state’ understanding. While one side in this debate demands that “Germany is an immigration country and should politically accept this fact”, the other side defines being German with blood,

language and common historical background. Immigration country concept that requires a redefinition of “us”, is also a search for the equal cohabitation of people coming from different ethnicities and belief systems on the same territories. This search has been there in Germany for a long time but it has just started to be handled at the parliamentary level.

When the concepts of immigration country and nation-state encounter, the most problematic issue becomes the right to vote and to be elected. This right is held by Germans only and immigrants should become German citizens in order to have this right. The fact that immigrants can not vote if they preserve their own identities, constitutes a big barrier in front of political participation and equality. Since immigrants are not represented, they can not voice their demands and express themselves. Thus, they are pushed out of the society’s common agenda. Some who understood that excluding the second and third generation is unbalancing the social and economic situation and thus it is against Germany’s interests, showed their concerns in the new immigration law saying that some measure should be taken. The new immigration law, here, should be seen as a conclusion of the debate Germany is making today. Also it should be accepted that this law could have not come to force yet because there are different ongoing discussions, which I tried to summarize above, behind this issue.

Also it should be considered that, since Germany is an important power in Europe and it wants to maintain this power, with this new law it also aims at setting the example for the forthcoming other immigration laws in Europe and aims at shaping and determining the content of these laws. The new law came to the agenda also because of German economy’s needs and thus it aims at attracting the “brain immigration/brain drain”.

Therefore, it can be argued that existing social dynamics (among which there are the improvements in the social status and action of immigrants as well as other

things explained above) brought Germany, from being a de facto immigration country; to the point that it should politically accept that it is an immigration country. The conclusion of this study is that Germany should recognize this reality and express it politically as soon as possible.

Where Germany should be located on the immigration country concept and how it will interpret this concept will also be designated within the future process and future discussions. It should not be forgotten that this is a process and Germany's peculiarities and susceptibilities are involved in this process too. In this respect, it should be accepted that there is not only one type of immigration country; Germany's own creation will come into view more clearly in time.

Where Germany should be located in the immigration country concept and how it will interpret this concept will also be designated within the future process and future discussions. It should not be forgotten that this is a process in which Germany's peculiarities and susceptibilities are also involved. In this respect, it should be accepted that there is not only one type of immigration country: Germany's peculiar experience will become clearer as time passes.

REFERENCES

- Bade, Klaus J. (1996), "Die Multikulturelle Herausforderung. Menschen über Grenzen-Grenzen über Menschen", München
- Bade, Klaus J. (2001), "Einwanderungskontinent Europa. Migration und Integration am Beginn des 21. Jahrhunderts", Osnabrück
- Bade, Klaus J./Münz, Rainer (2000), "Migrationreport 2000, Fakten-Analysen-Perspektiven", Rat für Migration, Frankfurt/M./New York
- Bauböck, Rainer (1994), "From Aliens to Citizens. Redefining the Status of Immigrants in Europa", Aldershot,
- Bauböck, Rainer/ Heller, Agnes/ Zollberg, Aristide (1996) (Eds), "The Challenge of Diversity. Integration and Pluralism in Societies of Immigration", Aldershot
- Bericht der Unabhängigen-Kommission "Zuwanderung"(2001), "Zuwanderung gestalten, Integration fördern", Bundesministerium des Inneres, Berlin
- Bibby, Reginald Wayne (1990), "Mosaic Madness: The poverty and Potential of Life in Canada", In: International Migration Review, 38; 49-75
- Bobbio, Norberto (1988), „Die Zukunft der Demokratie“, Nomos Verlagsgesellschaft, Berlin
- Bommes, Michael (1996), „Bundesrepublik Deutschland: die Normalisierung der Migrationserfahrung“, Lucius&Lucius, Stuttgart
- Borjas, George J. (1988), "International Differences in Labor Market Performance of Immigrants", In: International Migration Review 23/3: 20-96

Boyd, Monica (1989), "Family and personal networks in international migration: recent developments and new agendas" In: International Migration Review, 23: 638-670

Bundesminister des Innern (1995), "Aufzeichnung zur Ausländerpolitik und zum Ausländerrecht in der Bundesrepublik Deutschland", Bonn

Buser, Denise (1998), „Dimension einer kulturellen Grundrechtssicht“, In: Zeitschrift für Schweizerisches Recht, 1/1998, 1-36

Büttner, Christian/Meyer, Berthold (2001), "Integration durch Partizipation. Ausländische Mitbürger in demokratischen Gesellschaften", Frankfurt/New York, Frankfurt

Castles, Stephen (1996), "Immigration and Multiculturalism in Australia", In: International Migration Review 22: 251-271

Chaney, Elsa (1988), "The World Economy and Contemporary Migration", In: International Migration Review, 13: 204-212

Der Spiegel, (1995), "Zuwanderung nach SPD", 05.04.1995, page 111

Der Spiegel, (2000), „Deutsche Türken“, November.

Die Welt, 28. April. 1995,

Dohse, Knuth (1981), „Ausländische Arbeiter und bürgerliche Staat. Genese und Funktion von staatlicher Ausländerpolitik und Ausländerrecht“, Königstein, Frankfurt

Faist, Thomas (1985) „Soziologische Theorien internationaler Migration“, Zentrum für Sozialpolitik, Bremen

Fawcett, James T. (1989), "Networks, linkages, and migration system", In: International Migration Review, 23: 671-680

,

Fijalkowski, Jürgen (2000), „Erfordernisse und Grenze der Entwicklung eines transnationalen Bürgerstatus in Europa. Demokratietheoretische Reflexionen zur Zuwanderungs- und Integrationspolitik in der Europäischen Union und den Mitgliedsstaaten“, In: Hans-Dieter Klingemann/Friedhelm Neihardt, 363-390

Forschungsinstitut der Friedrich-Ebert-Stiftung, (1994). „Von der Ausländer-zur Einwanderungspolitik“, satz+druck GmbH, Düsseldorf,

Glick Schiller, Nina/ Basch, Linda/ Szanton Blanc, Cristina (1992), „Transnationalism: A new Analytic Framework for Understanding Migration“, In: Glick Schiller, Nina/ Basch, Linda/ Szanton Blanc, Cristina eds. Towards a Transnational Perspective on Migration: Race, Class, Ethnicity and Nationalism Reconsidered, New York Academy of Science, New York

Glick Schiller, Nina/Basch, Linda/ Szanton Blanc, Cristina (1997), „From Immigrants to Transmigrants: Theorizing Transnational Migration“, In: Transnationale Migration. Soziale Welt, Sonderband 12, Baden-Baden, 121-140

Gogolin, Ingrid (1994), „Sprachliche und Kulturelle Vielfalt in den Schulen Europas“, In: Mehrsprachigkeit in Europa. Modelle für den Umgang mit Sprachen und Kulturen, Klagenfurt, 1994, 18-42

Green, A. G. (1995), „ A comprasion of Canadian and US Immigration Policies in the Twentieht Century“, in: Canadian Journal of Economics, 21; 106-141

Greifenstein, Ralph (2001), „The Green Card“, Friedrich-Ebert-Stiftung, Bonn

Habermas, Jürgen (1998), „Zur Legitimation durch Menschenrechte“, In: Faktizität und Geltung, Suhrkamp, Frankfurkt am Main, 170-192

Haug, Sonja/Pichler, Edith (1997), „Soziale Netzwerke und Transnationalität: Neue Ansätze für die historische Migrationforschung“, In: Soziale Welt, 25: 259-284

Hawkins, Freda (1989), „Critical Years in Immigration: Canada and Australia Compared“ McGill-Queen`s University Press, Konigston

Heinzte, Hans-Joachim (1998), „Rechtliche oder politische Absicherung von Minderheitsrechten? Eine Einführung in die Thematik“, Zum 50. Jahrestag der UN-Menschenrechterklärung, Bonn, 14-54

Hoffmann, Lutz (1992), "Die unvollendete Republik", Papy Rossa Verlag, Köln
Immigration Commission Report (2001), "Zuwanderung gestalten- Integration fördern", Bundesministerium des Innern, Berlin

Kearney, Michael (1995), "The Effects of Transnational Culture, Economy, and Migration on Mixtec Identity in Oaxaca/California", In: The Bubbling Cauldron. Race, Ethnicity, and the Urban Crisis, University of Minnesota Press, 226-243

Kürşat-Ahlers, Elçin (1996), "The Turkish Minority in German Society", in: David Horrocks/Eva Kolinsky(eds), "Non-German Minorities in Contemporary German Society" 113-136

Lee, Everett S. (1966), "A theory of migration", In: Demography, 3: 47-57

Mahnig, Hans (2002), "Ist Deutschland wirklich anders? Die Deutsche Integrationspolitik im europäischen Vergleich", In: Deutschland-ein Einwanderungsland? Rückblick, Bilanz, und neue Fragen, Lucius&Lucius, Stuttgart

Martin, Philip (1996) "US-Einwanderungspolitik und NAFTA", Vortrag am IMIS am 27.06.1996

Martin, Philip (2001), "US Immigration Policy: Meeting 21st Century Challenges", In: Deutschland Einwanderungsland", Lucius&Lucius, Stuttgart, 495-520

Massey, Douglas (1987), "The Social Process of International Migration", In: Science 237, 14. August: 733-738

Massey, Douglas S.(1988), "International migration and economics development in comparative perspective", In: Population and Development Review, 14: 383-414

Mehrländer, Ursula (2001), "Einwanderungsland Deutschland: neue Wege nachhaltiger Integration", Suhrkamp Verlag, Bonn

Meier-Braun, Karl-Heinz (2002), "Deutschland, Einwanderungsland", Suhrkamp Verlag, Frankfurt am Main

Miksch, Jürgen (1989), "Kulturelle Vielfalt statt nationale Einfalt. Eine Strategie gegen Nationalismus und Rassismus", Frankfurt/Main

Muckel, Stefan (2001), "Islamischer Religionunterricht und Islamkunde an öffentlichen Schulen in Deutschland", In: Juristenzeitung 2/2001: 58-64

Neues Deutschland, 16.November 2000

OECD, (1990) "Report on West Germany", July

Okayuz, Mehmet (1999) "Federal Almanya'nın Yabancılar Politikası", Doruk yay., Ankara,

Opitz, Götz-Dietrich/Zwingenberger, Meike (1999), „Einwanderungsland USA-Einwanderungsland Bundesrepublik. Migration im internationalen Vergleich“, Fern Universität, Hagen

Parnreiter, Christof (2000), „Theorien und Forschungsansätze zu Migration“, in: Karl Husa/Christof Parnreiter/Irene Stacher, Baden-Baden, 25-52

Piore, Micheal J. (1979), "Birds of Passage: Migrant Labor and Industrial Societies", Cambridge University Press, Cambridge

Porscher, Hans (1996), „Die Effekte der Migration auf die Soziale Sicherung“, Weiden, Eurotrans-Verlag, Regensburg

Portes, Alejandro/ Walton, John (1981), "Labor, Class, and the International System", Academic Press, New York

Quaritsch, Helmut (1981), „Einwanderungsland Bundesrepublik Deutschland?“, Carl Friedrich von Siemens Stiftung, München

Ravenstein, Ernest George (1985) "The laws of migration", In: Journal of the Royal Statistical Society 48: 167-277

Rethmann, Albert-Peter (1996), "Asyl und Migration", Lit Verlag, Münster

Rex, John (1998), „Multikulturalität als Normalität moderner Stadtgesellschaft. Betrachtung zur sozialen und politischen Integration ethnischer Minderheiten“, In: Wilhelm Heitmeyer/Rainer Dollase/Otto Backens, 123-142

Sassen, Saskia (1988), "The Mobility of Labor and Capital. A study in international investment and capital flow", Cambridge University Press, Cambridge

Schöneberg, Ulrike (1993), "Gestern Gastarbeiter, morgen Minderheit", Peter Lang, Frankfurt am Main

Schulte, Alex (2002), „Integration- und Antidiskriminierungspolitik in Einwanderungsgesellschaften: Zwischen Ideal und Wirklichkeit der Demokratie“, Friedrich-Ebert-Stiftung, Bonn

Schultze G, (1991) "Berufliche Integration türkischer Arbeitnehmer, Vergleich der ersten und zweiten Generation", Friedrich-Ebert-Stiftung, Bonn

Smith, Michael Peter (1995), "The disappearance of world cities and the globalization of local politics", In World cities in a world system, Cambridge University Press, Cambridge, 249-266

Stein, Ekkehart (1998), „Staatsrecht“, 16. Auflage, Tübingen, 26-35

Storz, Henning (2001), "Einwanderungsland Deutschland" in: Migration Report, 45/21-49

Tadora, Micheal P. (1980), "Internal migration in developing countries: A survey", In: Population and Economic Change in Developing Countries, University of Chicago Press, Chicago, 361-401

Taz (Tageszeitung), 7 June 1994

Timoty, Hatton/ Williamson Jeffrey (1994), "International Migration and World Development: A Historical Perspective" Springer Verlag, Berlin

Vogelsang, Ronald (1999), "Einwanderungspraxis Kanadas: Lehren für Deutschland und Europa?", In: Einwanderungsregion Europa, Bundesinstitut für Bevölkerungsforschung, Osnabrück, 121-147

Weber, Albrecht (1997), "Klassische Einwanderungsländer: USA, Kanada, Australien", in: Einwanderungsland Bundesrepublik Deutschland in der Europäischen Union", Universitätsverlag Rasch, Osnabrück, 97-123

Weber, Max (1968) „Freiheit und Zwang in der Rechtsgemeinschaft“, In: Max Weber: Soziologie-Weltgeschichtliche Analysen- Politik. Stuttgart, 76-79

Wessely, Thomas W (1999) “Einwanderungsrecht im Internationalen Vergleich. Kanada, Australien und die USA”, Friedrich Naumann-Stiftung, Königswinter

Westphal, Voller/Stoppa, Edgar (2002) “Gesetzestexte, Materialien und Aufsätze zum Zuwanderungsgesetz“, Schmidt Römhild, Lübeck,

Wilamowitz-Möhlendorf, Ulrich/Wolffs, Michael/Augustin, Sank (2001) „Projekt Zuwanderung und Integration: Integrations- und Zuwanderungskonzepte – Synopse der Positionen“, Konrad-Adenauer-Stiftung, Berlin

Wolffs, Michael (2001), „Projekt Zuwanderung und Integration: Zuwanderungs-Stellungnahmen der Parteien und einiger gesellschaftlicher Gruppen“, Konrad Adenauer Stiftung, Bonn

Yano, Hassashi (1998), ”Wir sind benötigt, aber nicht erwünscht”, Essen

Zolberg, Aristide R. (1989), “The Next Waves: Migration Theory for a Changing World”, In: International Migration Review 23/3: 403-430

Websites

<http://www.bverfg.de>

<http://www.spiegel.de/politik/deutschland>

<http://www.dip.bundestag.de>

<http://www.campus-germany.de/german>

<http://www.bundesverfassungsgericht.de/pressmitteilungen>

<http://www.bundesregierung.de/Themen>

<http://www.dw-world.de/german>

<http://www.documentarchiv.de/brd/2002/zuwanderungsgesetz.html>

<http://www.proasyl.de/texte/gesetze/brd/zuwanderungsgesetz/positionen>

<http://www.cdu.de/politika-z/zuwandeung>

<http://www.fdp.de>

<http://www.spd.de>

<http://www.grünen.de>

<http://www.csu.de>

<http://www.pds.de>

<http://www.schader-stiftung.de/wohn-wandel>

<http://www.aktivgegenabschiebung.de>

<http://www.learn-line.nrw.de/angebote/angenda21/thema/zuwanderung.htm>
<http://www.bpb.de/zuwanderung/body>
<http://www.vrp.de/archiv/gesgebng>
<http://www.kas.de>
www.uni-bamberg.de/efms
www.stuttgarterzeitung.de
www.sueddeutschezeitung.de
www.taz.de

APPENDIX A

THE TEXT OF THE NEW GERMAN LEGAL DRAFT ON IMMIGRATION

Significant parts of the text of new legal draft on Immigration been used in this thesis as reference points

.....

Artikel 1

Kapitel 1

Allgemeine Bestimmungen

§1

Zweck des Gesetzes; Anwendungsbereich

(1) Das Gesetz dient der Steuerung und Begrenzung des Zuzugs von Auslaender in die Bundesrepublik Deutschland. Es ermöglicht und gestaltet Zuwanderung unter Berücksichtigung der Integrationsfaehigkeit sowie der wirtschaftlichen und arbeitsmarktpolitischen Interessen der Bundesrepublik Deutschland. Das Gesetz dient zugleich der Erfüllung der humanitaeren Verpflichtungen der Bundesrepublik Deutschland. Es regelt hierzu die Einreise, den Aufenthalt, die Erwerbstaetigkeit und die Förderung der Integration von Auslaendern. Die Regelungen in anderen Gesetzten bleiben unberührt.

(2) Dieses Gesetz findet keine Anwendung auf Auslaender,

1. deren Rechtsstellung von dem Gesetz über die allgemeine Freizügigkeit von Unionsbürgern geregelt ist, soweit nicht durch Gesetz etwas anderes bestimmt ist,

2. die nach Massgabe der §§18 bis 20 des Gerichtsverfassungsgesetzes nicht der deutschen Gerichtsbarkeit unterliegen,

3. soweit sie nach Massgabe völkerrechtlicher Vertraege für den diplomatischen und konsularischen Verkehr und für die Taetigkeit internationaler Organisationen und Einrichtungen von Einwanderungsbeschraenkungen, von der

Verpflichtung, ihren Aufenthalt der Ausländerbehörde anzuzeigen und dem Erfordernis eines Aufenthaltstitels befreit sind und wenn Gegenseitigkeit besteht, sofern die Befreiungen davon abhängig gemacht werden können.

§2

Begriffsbestimmungen

(1) Ausländer ist jeder, der nicht Deutscher im Sinne des Artikels 116 Abs. 1 des Grundgesetzes ist.

(2) Erwerbstätigkeit ist die selbständige Tätigkeit und die Beschäftigung im Sinne von §7 des Vierten Buches Sozialgesetzbuch.

(3) Der Lebensunterhalt eines Ausländer ist gesichert, wenn er ihn einschliesslich ausreichenden Krankenversicherungsschutzes ohne Inanspruchnahme öffentlicher Mittel bestreiten kann. Dabei bleiben das Kindergeld sowie öffentliche Mittel ausser Betracht, die auf Beitragsleistungen beruhen oder die gewährt werden, um den Aufenthalt im Bundesgebiet zu ermöglichen.

.....

Kapitel 3

Förderung der Integration

§43

Integrationskurs und –programm

(1) Die Integration von rechtmässig auf Dauer im Bundesgebiet lebenden Ausländern in das wirtschaftliche, kulturelle und gesellschaftliche Leben in der Bundesrepublik Deutschland wird gefördert.

(2) Eingliederungsbemühungen von Ausländern werden durch ein Grundangebot zur Integration (Integrationskurs) unterstützt. Der Integrationskurs umfasst Angebote, die Ausländer an die Sprache, die Rechtsordnung, die Kultur und die Geschichte in Deutschland heranzuführen. Ausländer sollen dadurch mit den Lebensverhältnissen im Bundesgebiet so weit vertraut werden, dass sie ohne die Hilfe oder Vermittlung Dritter in allen Angelegenheiten des täglichen Lebens selbständig handeln können.

(3) Der Integrationskurs umfasst einen Basis- und einen Aufbausprachkurs von jeweils gleicher Dauer zur Erlangung ausreichender Sprachkenntnisse sowie einen Orientierungskurs zur Vermittlung von Kenntnissen der Rechtsordnung, der Kultur und der Geschichte in Deutschland. Die erfolgreiche Teilnahme wird durch eine vom Sprachkurstraeger auszustellende Bescheinigung nachweisen. Die Teilnahme am

Basissprachkurs ist in der Regel Voraussetzung für die Teilnahme am Aufbausprachkurs. Soweit erforderlich, soll der Integrationskurs durch ein sozialpädagogische Betreuung sowie durch Kinderbetreuungsangebote ergänzt werden. Für teilnahmeberechtigte und verpflichtete Ausländer (§§ 44, 45) werden der Basissprachkurs und der Orientierungskurs vom Bundesamt für Migration und Flüchtlinge koordiniert und durchgeführt, das sich hierzu privater oder öffentlicher Träger bedienen kann. Im Übrigen ist die Durchführung der Integrationsmassnahmen Aufgabe der Länder. Für die Teilnahme am Integrationskurs kann unter Berücksichtigung der Leistungsfähigkeit ein angemessener Kostenbeitrag erhoben werden. Zur Zahlung ist auch derjenige verpflichtet, der dem Ausländer zur Gewährung des Lebensunterhalts verpflichtet ist.

(4) Die Bundesregierung wird ermächtigt, nähere Einzelheiten des Integrationskurses, insbesondere die Grundstruktur, die Dauer, die Lerninhalte und die Durchführung der Kurse, die Vorgaben bezüglich der Auswahl und Zulassung der Kursträger sowie die Rahmenbedingungen für die Teilnahme einschliesslich der Kostenbeiträge durch eine Rechtsverordnung mit Zustimmung des Bundesrates zu regeln.

(5) Der Integrationskurs kann durch weitere Integrationsangebote, insbesondere ein migrationspezifisches Beratungsangebot, ergänzt werden. Das Bundesministerium des Innern oder die vom ihm bestimmte Stelle entwickelt ein bundesweites Integrationsprogramm, in dem insbesondere die bestehenden Integrationsangebote von Bund, Ländern, Kommunen und die Ausländerbeauftragte der Bundesregierung für Aussiedlerfragen beteiligt. Darüber hinaus sollen Religionsgemeinschaften, Gewerkschaften, Arbeitgeberverbände, die Träger der freien Wohlfahrtspflege sowie sonstige gesellschaftliche Interessenverbände beteiligt werden.

.....

Artikel 5

Änderung des Staatsangehörigkeitsgesetzes

Das Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 18 des Gesetzes vom 3. Dezember 2001 (BGBl. I S. 3306), wird wie folgt geändert:

1. Die Gliederung in Abschnitte wird aufgehoben und die Überschriften der bisherigen Abschnitte werden gestrichen.

2. §1 wird wie folgt gefasst:

“§1

Deutscher im Sinne dieses Gesetzes ist, wer die deutsche Staatsangehörige besitzt.”

3. § 3 wird wie folgt geändert:

a) Die Wörter “in einem Bundesstaate” werden gestrichen.

b) In Nummer 5 wird die Angabe “(§§ 8 bis 16 und 40b)” durch die Angabe “(§§8 bis 16, 40b und 40c)” ersetzt.

.....

§10

(1) Ein Auslaender, der seit acht Jahren rechtmässig seinen gewöhnlichen Aufenthalt im Inland hat, ist auf Antrag einzubürgern, wenn er

1. sich zur freiheitlichen demokratischen Grundordnung des Grundgesetzes für die Bundesrepublik Deutschland bekennt und erklärt, dass er keine Bestrebungen verfolgt oder unterstützt hat, die gegen die freiheitliche demokratische Grundordnung, den Bestand oder die Sicherheit des Bundes oder eines Landes gerichtet sind oder eine ungesetzliche Beeinträchtigung der Amtsführung der Verfassungsorgane des Bundes oder eines Landes oder ihrer Mitglieder zum Ziele haben oder die durch Anwendung von Gewalt oder darauf gerichtete Vorbereitungshandlungen auswärtige Belange der Bundesrepublik Deutschland gefährden, oder glaubhaft macht, dass er sich von der früheren Verfolgung oder Unterstützung derartiger Bestrebungen abgewandt hat,

2. freizügigkeitsberechtigter Unionsbürger oder gleichgestellter Staatsangehöriger eines EWR-Staates ist oder eine Aufenthaltserlaubnis-EU oder eine Niederlassungserlaubnis oder eine Aufenthaltserlaubnis für andere als die in den §§16, 17, 22, 23 Abs. 1, §§24 und 25 Abs. 3 bis 5 des Aufenthaltsgesetzes aufgeführten Aufenthaltszwecke besitzt,

3. den Lebensunterhalt für sich und seine unterhaltsberechtigten Familienangehörigen ohne Inanspruchnahme von Sozial- oder Arbeitslosenhilfe bestreiten kann,

4. seine bisherige Staatsangehörigkeit aufgibt oder verliert und

5. nicht wegen einer Straftat verurteilt worden ist.

Satz 1 Nr. 1 findet keine Anwendung, wenn ein minderjähriges Kind im Zeitpunkt der Einbürgerung das 16. Lebensjahr noch nicht vollendet hat. Von der in Satz 1 Nr. 3 bezeichneten Voraussetzung wird abgesehen, wenn der Auslaender das 23. Lebensjahr noch nicht vollendet hat oder aus einem von ihm nicht zu vertretenden Grund den Lebensunterhalt nicht Inanspruchnahme von Sozial- oder Arbeitslosenhilfe bestreiten kann.

(2) Der Ehegatte und die minderjaehrigen Kinder des Auslaenders können nach Massgabe des Absatzes 1 mit eingebürgert werden, auch wenn sie sich noch nicht seit acht Jahren rechtmässig im Inland aufhalten.

(3) ein Ausweisungsgrund nach §54 Nr. 5 des Aufenthaltsgesetzes vorliegt.

§12

(1) Von der Voraussetzung des § 10 Abs. 1 Satz 1 Nr. 4 wird abgesehen, wenn der Auslaender seine bisherige Staatsangehörigkeit nicht oder nur unter besonders schwierigen Bedingungen aufgeben kann. Das ist anzunehmen, wenn

1. das Recht des auslaendischen Staates das Ausscheiden aus dessen Staatsangehörigkeit nicht vorsieht,

2. der auslaendische Staat die Entlassung regelmässig verweigert,

3. der auslaendische Staat die Entlassung aus der Staatsangehörigkeit aus Gründen versagt hat, die der Auslaender nicht zu vertreten hat, oder von unzumutbaren Bedingungen abhaengig macht oder über den vollstaendigen und formgerechten Entlassungsantrag nicht in angemessener Zeit entschieden hat,

4. der Einbürgerung aelterer Personen ausschliesslich das Hindernis eintretender Mehrstaatigkeit entgegensteht, die Entlassung auf unverhaeltnismässige Schwierigkeiten stösst und die Versagung der Einbürgerung eine besondere Haerte darstellen würde,

5. dem Auslaender bei Aufgabe der auslaendischen Staatsangehörigkeit erhebliche Nachteile insbesondere wirtschaftlicher oder vermögensrechtlicher Art entstehen würden, die über den Verlust der staatsbürgerlichen Rechte hinausgehen, oder

6. der Auslaender einen Reiseausweis nach Artikel 28 des Abkommens über die Rechtsstellung der Flüchtlinge vom 28. Juli 1951 (BGBl. II 1953 S. 559) oder eine nach Massgabe des § 23 Abs. 2 des Aufenthaltsgesetzes erteilte Niederlassungserlaubnis besitzt.

(2) Von der Voraussetzung des § 10 Abs. 1 Satz 1 Nr. 4 wird ferner abgesehen, wenn der Auslaender die Staatsangehörigkeit eines anderen Mitgliedstaates der Europäeschen Union besitzt und Gegenseitigkeit besteht.

(3) Von der Voraussetzung des § 10 Abs. 1 Nr. 4 kann abgesehen werden, wenn der auslaendische Staat die Entlassung aus der bisherigen Staatsangehörigkeit von der Leistung des Wehrdienstes abhaengig macht und der Auslaender den überwiegenden Teil seiner Schulausbildung in deutschen Schulen erhalten hat und im Inland in deutsche Lebensverhaeltnisse und in das wehrpflichtige Alter hineingewachsen ist.

(4) Weitere Ausnahmen von der Voraussetzung des § 10 Abs. 1 Satz 1 Nr. 4 können nach Massgabe völkerrechtlicher Verträge vorgesehen werden.

§12a

(1) Nach § 10 Abs. 1 Satz 1 Nr. 5 bleiben ausser Betracht

1. die Verhaengung von Erziehungsmaassregeln oder Zuchtmitteln nach dem Jugendgerichtsgesetz,

2. Verurteilung zu Geldstrafe bis zu 180 Tagessaetzen und

3. Verurteilungen zu Freiheitsstrafe bis zu sechs Monaten, die zur Bewahrung ausgesetzt und nach Ablauf der Bewahrungszeit erlassen worden sind.

Ist der Auslaender zu einer hoeheren Strafe verurteilt worden, so wird im Einzelfall entscheiden, ob die Straftat ausser Betracht bleiben kann.

(2) Im Falle der Verhaengung von Jugendstrafe bis zu einem Jahr, die zur Bewahrung ausgesetzt ist, erhaelt der Auslaender eine Einbuergierungszusicherung fuer den Fall, dass die Strafe nach Ablauf der Bewahrungszeit erlassen wird.

(3) Wird gegen einen Auslaender, der die Einbuergierung beantragt hat, wegen des Verdachts einer Straftat ermittelt, ist die Entscheidung ueber die Einbuergierung bis zum Abschluss des Verfahrens, im Falle der Verurteilung bis zum Eintritt der Rechtskraft des Urteils auszusetzen. Das Gleiche gilt, wenn die Verhaengung der Jugendstrafe nach §27 des Jugendgerichtsgesetzes ausgesetzt ist.

§12b

(1) Der gewoehnliche Aufenthalt im Inland wird durch Aufenthalte bis zu sechs Monaten im Ausland nicht unterbrochen. Bei laengeren Auslandsaufenthalten besteht er fort, wenn der Auslaender innerhalb der von der Auslaenderbehoerde bestimmten Frist wieder eingereist ist. Gleiches gilt, wenn die Frist lediglich wegen Erfuellung der gesetzlichen Wehrpflicht im Herkunftsstaat ueberschritten wird und der Auslaender innerhalb von drei Monaten nach der Entlassung aus dem Wehr- oder Ersatzdienst wieder einreist.

(2) Hat der Auslaender sich aus einem seiner Natur nach nicht voruebergehenden Grund laenger als sechs Monate im Ausland aufgehalten, kann die fruhere Aufenthaltszeit im Inland bis zu funf Jahren auf die fuer die Einbuergierung erforderliche Aufenthaltsdauer angerechnet werden.

(3) Unterbrechungen der Rechtmassigkeit des Aufenthalts bleiben ausser Betracht, wenn sie darauf beruhen, dass der Auslaender nicht rechtzeitig die erstmals erforderliche Erteilung oder die Verlaenerung des Aufenthaltstitels beantragt hat.