Dissertation proposal

The organisation of labour immigration in Germany and Norway – institutional change and inertia in reform processes

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The dissertation focuses on increasing coordination requirements due to a paradigmatic change from prevention of immigration towards labour market oriented steering. Respective reform efforts are confronted with a historically evolved implementation structure of labour immigration policies showing a high level of complexity. Accordingly, public administration is increasingly facing the challenge of coordination in order to achieve a coherent course of action. The labour immigration administration of Germany and Norway has been chosen as object of study because both countries show a similar paradigmatic change in legislative reforms during the investigation period from 2001 to 2012 but differ substantially in their institutional characteristics. Studies from a neo-institutionalist perspective argue that these country-specific characteristics play a vital role in solving the puzzle of organisational change and inertia in the implementation of reform aims. The dissertation thus fills a research gap in migration research which has mainly focused on changes in discourse and legislation. The qualitative comparative small-n study is guided by the research questions of 1) What is the effect of a paradigmatic shift in legislation on the inter-organisational system of labour immigration in Germany and Norway? and 2) How can change and inertia in and similarities and differences between the countries be understood? The analysis is twofold. First, the dependent variable, i.e. change in labour immigration reforms is analyzed in depths. Second, independent variables, i.e. institutional characteristics necessary for an understanding of the findings, are subsequently investigated. The analysis is based on document analysis and semi-structured interviews with actors of policy formulation and implementation.

Puzzle, research questions and objectives

Since the beginning of the millennium, the policy field of immigration has seen several reforms in Germany and Norway. They indicate a new hegemony of problem perceptions and related solutions which increasingly sees immigration as means to cope with demographic change and economic dynamics. Such a changed perspective in general is the point of origin of any reform process which as a dynamic concept is shaped by actors' behaviour that initiate, formulate and implement them (Petring 2010). Regarding immigration, the change in debate means a shift in the political will from avoidance to an active steering of labour immigration. The new frame of labour market oriented steering means an increased attention to the empirical puzzle of how to achieve coherent action among implementing actors. The reform aim of labour market oriented immigration steering constitutes a profound challenge of public administration as labour immigration can be labelled as a so-called wicked issue (Rittel and Webber 1973; Head 2008) characterised by high levels of uncertainty (as economic

development is dynamic and hardly predictable so is the need for labour immigrants), ambiguity (no consensus among the involved actors, e.g. the extent of liberalisations) and complexity (a multi-level, cross-sectoral and multi-actor environment). It puts the, difficult to cope with, demand on public administration to generate and use knowledge, to pursue a strategy and, interlinked to them, to coordinate the multitude of actors involved. The latter constitutes the dissertation's core theme leading to its first research question: What is the effect of a paradigmatic shift in legislation on the interorganisational system of labour immigration in Germany and Norway? It herby widens the dominant analytical focus of previous studies within migration research on the politics of agenda-setting and policy formulation and thus fills a gap in research in regard to the dynamics within implementation. The object of study can be conceptualised as an inter-organisational system (Alexander 1993) of collective actors involved in the joint policy production (Blätte 2011) of implementing labour immigration policies. Implementation research suggests that the complex structure and the multiple actors involved ask for an analysis of cooperation and coordination practices (O'Toole Jr. 2000). Coordination literature thus is central to the dissertation which has been asking for mechanisms to ensure coherence (Ellwein 1991: 99). Coordination in an inter-organisational system can thus be understood as process and structure to "concert the decisions and actions of their subunits or constituent organizations" (Alexander 1993: 331).

From a neo-institutionalist perspective, institutions matter for an understanding of the dynamics between reform processes and the implementation system. Scholars differ in their emphasis on the restricting and enabling effect on actors' behaviour as well as in their view on whether and to which extent they can intentionally be changed (Mayntz und Scharpf 1995a; Scharpf 1997; 2000). However, they agree that institutions constitute necessary objects of study to understand "how social choices are shaped, mediated, and channelled" (DiMaggio und Powell 1991a, 2). The dissertation thus focuses on the linkage between legislative changes and institutional ones in the inter-organisational system of implementing actors. The new paradigm visible in the reforms of labour immigration are linked to the demands of 1) a clear division of tasks, 2) a provision of exchange of information and experience and 3) mechanisms of alignment within the process of joint policy production. Institutions hereby define the functional and social role of implementing actors (Scott 1994).

In regard to the effect of reform processes, neo-institutionalism has often been criticised for its inability to explain change (Olsen 2009; Mahoney and Thelen 2010, 2–3). It leads to the theoretical puzzle of what conditions lead to the empirically observable organisational change and inertia in the face of reform objectives. With Germany and Norway, two industrialised European countries have been chosen which have a similar problem perception and have seen several labour immigration reforms in the investigation period from 2001 to 2012. The new paradigm of labour market oriented immigration steering in both of the countries leads to the assumption of convergence of their implementation

structure. However, historical institutionalism suggests that evolved country-specific characteristics and path-dependencies play vital roles in reform processes and explain the extent of institutional change (Schmidt and Starke 2011; Peters, Pierre and King 2005; Pierson 2000). This leads to the dissertation's second research question: *How can 1*) change and inertia in and 2) similarities and differences between the countries be understood?

The dissertation thus has two objectives: 1) a comprehensive analysis of the visible changes as well as of similarities and differences between the cases and 2) an explorative investigation of independent variables, i.e. institutional conditions like driving actors, the historical and cultural background and the role of EU legislation.

State of research

Literature relevant to the dissertation can be grouped into three broad categories: 1) studies on policy change, 2) implementation research and 3) studies on institutional characteristics and change.

A focus on policy change in migration research has been visible since the mid-1990s starting with explaining the host countries' increased provision of legal certainty for immigrated persons (Hollifield 1992). Increasingly, the academic interest has also encompassed changes in immigration policies. A differentiation of immigration policies has herby been highlighted pointing to two driving forces for policy change in European countries. First, a differentiation of labour immigration from within and outside the EU (Samers 2012; Guild 2013) showing a reform impulse in the Europeanization of immigration policies (Atger 2013; Lahav 2004; Birsl und Müller 2005). Second, a further differentiation of types of labour immigration at the national level based on an employer instead of an employee orientation of European states (Jurado, Brochman, and Dølvik 2013, 2). It means that liberalisations at the national level vary across qualifications and professions and are thus based on the perception of the immigrants' economic value (Geddes 2003, 150). These perceptions become materialised in national policies based on changing attitudes and discourses (Buonfino 2004) and on political struggles in the process of agenda-setting and policy formulation (Baldwin-Edwards und Schain 2013; Kolb 2007; Freeman 1995). It can be linked to a theoretical debate of "advocacy coalitions" (Sabatier 1986) and the capacity to organise for collective action (Olson 1994). It becomes apparent that research on immigration reforms shows a dominance of analysing and explaining changes in policies and has thus "tended to ignore the study of policy implementation" (Guiraudon and Lahav 2013, 14). This policy phase thus constitutes a research gap which has often been mentioned (Green 2013; Freeman 2005) but not yet been addressed in a comprehensive way. Hence, the dissertation contributes to this stream of research in two ways. Firstly, by including Germany as an EU-country and Norway as a non-EU country both the European and the national reform impulses in their effect on the institutional framework are taken into consideration. This also allows for the analysis of possible horizontal influencing mechanisms and related policy diffusion and transfer (Obinger, Schimidt and Starke 2013) in Europe. Secondly, as the dissertation focuses on the dynamics between reforms and the implementation structure it fills a highly visible research gap.

The focus of the dissertation lies at the heart of implementation research with its roots being the analysis of reforms (Pressman and Wildavsky 1973; Mayntz 1980). Implementation research raised hopes for a critical administrative science (Wollmann 1980) but then has "swung in and out of fashion" and became increasingly implicitly visible (O'Toole Jr. 2000: 263). Scholars have however been calling for its renaissance as an analytical perspective (Lester and Goggin 1998; deLeon and deLeon 2001). Implementation research can be distinguished according to a prescriptive and an analytical-descriptive orientation (Manytz 1983: 19) as well as a top-down and bottom up perspective (Sabatier 1998) showing three analytical dimensions: 1) taking the government perspective and the programme objectives as the benchmark for empirical analyses (Sabatier and Mazmanian 1979), 2) taking the actor perspective within the implementation structure asking for formal provisions and actual practices (Grunow 1983; Lipsky 1980) and 3) taking the recipients' perspective within the implementation field asking for situative and environmental influences (Scharpf 1983). The dissertation focuses on the second analytical perspective and thus contributes to related theoretical debates of inter-institutional cooperation (Bardach 1998), the involvement of private actors (Hill 2000), and most importantly horizontal (Blätte 2011) and vertical (Benz 2004; Wegrich 2006) coordination. Further, it addresses the highlighted lack of cross-country comparisons of implementation research (O'Toole Jr. 2000).

Finally, previous studies on labour immigration in Germany and Norway give some indication on a similar legislative path and differences in the institutional characteristics (OECD 2013; Schneider 2012; Christensen, Lægreid, and Norman 2007; Christensen and Lægreid 2009). Legislation in Germany and Norway shows similar trends: a : a recruitment ban in Germany in 1973 and an immigration stop in Norway in 1975 as well as the formulation of the subordination of immigration to state interests in the *Ausländergesetz* in Germany and the Immigration Act in Norway in the beginning of the 1990s. Most importantly, there have been recent reforms in both of the countries: the immigration law of 2005 in Germany and a reformulation of the immigration law in Norway in 2008 with prior legislation of reforming the administration of immigration. However, institutional characteristics of the historically evolved inter-organisational implementation structure differ (see table 1).

	Germany	Norway
Organisational principle of	three level structure	two level structure
implementation	(federal, state, local)	(central and municipalities)
	implementation of	implementation by
	immigration laws as own	Directorate of Immigration
	responsibility of the states	(NDI)
Decision process on residence	decentralised	• central
and work permit	local foreigner authority	NDI decides on application
	has final decision	to immigrate
	1	l

Table 1. Differences in the inter-organisational implementation structure of Germany and Norway. Source: own compilation.

The reform process in Germany and Norway does not only indicate the same paradigmatic shift towards labour market oriented steering instead of prevention but also the same core questions of the best way to organise the implementation of labour immigration under this new theme: 1) cross-sectoral policy production, 2) (de)centralisation, and 3) process parsimony.

At the federal level in Germany, the Ministry of Labour and Social Affairs (BMAS) is next to the Ministry of the Interior (BMI) of importance reflecting the cross-sectoral policy production. Linked to this, is a potential conflict of objectives: labour immigration vs. fighting unemployment. It had already been mentioned by the Independent Commission "Immigration" of the federal government in 2001 which argued for an increased linking of the activities of both sectors, i.e. horizontal coordination, and for a better informed immigration policy, i.e. improvements in regard to the acquisition and exchange of information among the actors involved, as a solution (Unabhängige Kommission Zuwanderung 2001: 18). Further conflicts of objectives also appear at the interface to the policy sector of economic cooperation and development. As visible in table 2 which shows the administrative actors involved in the process of granting labour immigrants a residence and work permit, there however has not been any institutional linkage between the policy sectors.

Table 2 also shows the multi-level characteristic of the labour immigration administration in Germany. Whereas main policy decisions take place at the federal level, federal states are central to the implementation of migration policies. They partly have distinctive administrative regulations, e.g. regarding the recognition of foreign certificates and diplomas. The recent legislative reform, the immigration law of 2005, hereby indicates centralisation to some extent: the establishment of the Federal Office for Migration and Refugees (BAMF) as an agency of the Federal Ministry of Interior (BMI) in 2005. In regard to labour migration, it conducts activities concerning monitoring and research. It has

also been ascribed a coordinative function and given some decisive power in the realm of labour immigration of researchers (OECD 2013, 82).

Interior	Labour and Social Affairs	Foreign Affairs
Ministry of the Interior	Ministry of Labour and	Ministry of Foreign Affairs
(BMI)	Social Affairs (BMAS)	 Diplomatic missions
o Federal Office for	o Federal Employment	
Migration and	Agency (BA)	
Refugees (BAMF)	Central Agency for	
	Foreign Placement	
	(ZAV)	
	Employment	
	agencies	
Ministries of the Interior of	Ministries of Labour and	
the federal states	Social Affairs of the federal	
 Foreigners authority 	states	
 Local foreigners 		
authority		

Table 2. Main administrative actors within the interorganisational system of labour immigration in Germany. Source: own compilation

Also within the policy sector of labour and social affairs some indication of centralisation can be found. Here the Federal Employment Agency (BA) is the main actor in regard to the procedural design of granting labour market access (Schneider 2012, 17). The single decisions on work permits have however been made by the individual employment agencies. This however has changed in 2011. The Central Agency for Foreign Placement (ZAV) having been a sub-entity of the BA since 2007 since then does not only assist employers and employees in immigration and exchange processes. It also now encompasses 12 teams in the realm of labour immigration meaning the centralisation of decisions on labour market access within the BA.

In Norway, the Ministry of Justice and Public Security has traditionally been responsible for immigration but competences were shifted to Ministry of Labour and Social Affairs after the general elections in 2005 (Christensen, Lægreid, and Norman 2007). In this context, immigration tasks located at the Ministry of Local Government and Regional Affairs had also been moved. The Directorate of Immigration (UDI) is the central agency for the implementation of immigration policies and the core actor of decisions on rejections. It also means that it instructs the Foreign Service missions and the

National Police Immigration Service (see table 3 for overview of actors of the Norwegian labour immigration administration) in immigration cases. The UDI has been object to several reforms between 2000 and 2005 "moving from horizontal specialization for regulation based on geography to using a client and a process principle for design" (Christensen, Lægreid, and Norman 2007, 10).

Interior	Labour and Social Affairs	Foreign Affairs
Ministry of Justice and	Ministry of Labour	Ministry of Foreign Affairs
Public Security	 Directorate of 	o Foreign Service
 Directorate of 	Immigration (sector	Missions
Immigration	responsibility)	
(organisational		
affiliation)		
o The National Police		
Directorate		
The National Police		
Immigration Service		

Table 3. Main administrative actors within the interorganisational system of labour immigration in Norway. Source: own compilation.

Furthermore, in both cases, a reform aiming at increasing the process efficiency of granting residence and work permits has taken place. In Germany, a one-stop-system was introduced merging the two separate processes of granting a residence and a work permit into one. In Norway, the two categories have been merged and thus, a residence permit now also means the grant of a work permit. It indicates that similar legislative changes and questions of organisation thus lead to differing empirical visible institutional change. The dissertation aims at contributing to this research stream by bridging the empirical findings with the theoretical debate on converge (Pollitt 2001), e.g. of isomorphism (DiMaggio and Powell 1991b), as well as on explaining differences between the effects of reforms on institutions (Peters, Pierre and King 2005; Pierson 2000).

Methods and analytical approach

The research design is a qualitative comparative small-n study and the cases of the German and Norwegian labour immigration administration have been chosen based on a most different system research strategy (Frendreis 1983). The investigation period has been chosen from 2001 (first administrative reform under the new paradigm in Norway) and 2012 (implementation of the EU Blue Card in Germany) in which comprehensive reforms under the new political will of labour market

oriented steering have been introduced into the historically evolved inter-organisational system (Alexander 1993).

Answering the first research question (*What is the effect of a paradigmatic shift in legislation on the inter-organisational system of labour immigration in Germany and Norway?*) thus needs the construction of analytical lenses that enable an investigation of change and inertia in the organisation of labour immigration. Focussing on actors as the shapers of dynamic reform processes (Petring 2010) from a neo-institutionalist perspective refers to the ascribed roles within these mechanisms of horizontal (Mayntz and Scharpf 1975b; Blätte 2011) and vertical (Benz 2004) coordination to operationalise change and inertia in the implementation structure. The PhD project follows Richard W. Scott's definition of institutions:

"Institutions are symbolic and behavioral systems containing representational, constitutive, and normative rules together with regulatory mechanisms that define a common meaning system and give rise to distinctive actors and action routines [...]Institutions operate at a variety of levels, and their elements can be embodied in and carried by cultures, by regimes, and by formal organizations." (Scott 1994, 68, 70)

Hence, the institutional dimension defines the role of actors by formal and informal rules as well as mechanisms, i.e. processes. The role has two ideal-typical dimensions: a functional one visible in tasks and competencies and a social one within actor constellations.

These dimensions become visible in institutional change which can be, based on Scott's definition, operationalised by the following indicators:

- Changes in formal and informal rules
 - New actors (public and private ones)
 - Changes in resources of (sub-)entities
 - Changes in tasks (shifting tasks among actors and the creation of new ones)
- Changes in formal and informal processes
 - Coordination processes
 - Accountability relationships

In answering the first research question, this outlined analytical framework is applied which however needs some further specification. The investigation is based on process-tracing (Beach and Petersen 2013) through document analysis and semi-structured interviews with actors of policy formulation and implementation regarding the comprehensiveness and nature of institutional change. The effect of legislative changes on coordination in the inter-organisational system of labour immigration can then be grouped into the categories of institutional change developed by Wolfgang

Streeck and Kathleen Thelen (2005). They distinguish between the process of change (abrupt or incremental) and the result of change (continuity or discontinuity).

The findings will then be analysed under the second research question (*How can 1*) change and inertia in and 2) similarities and differences between the countries be understood?). "Policies have their own history, infrastructure and knowledge. They are not mechanical reflexes triggered by societal processes, but rather a selective, internally generated, achievement of their political systems." (Sciortino 2004, 22-23) Thus, differences between the countries in regard to the reform dynamics can be expected. Based on the state of research, the following factors are assumed to affect case-specific change:

- 1. The reform impulse, e.g. political (EU or national) or administrative;
- 2. The historically evolved institutional context, e.g. different organisational principles (Germany as a federal state, Norway as a unitary one);
- 3. Administrative guiding principles, e.g. the concept of solidarity enshrined in the type of welfare state.

The analysis will however be open to the tracing of other influencing factors. Hence, the major challenge of the project is its aim of a contextual understanding of the dynamics between reform processes and the implementation structure. Germany and Norway both show a paradigmatic legislative shift towards labour market oriented steering which allows comparing if and how the functional and social role of implementing actors facing the demand of increased coherence is changed. Thus, not only the extent of convergence becomes visible but also general assumptions on the dynamics between legislative reforms and coordination practices can be generated.

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