

Project C4

The Social Construction of Heterogeneity Criteria

The project's starting point lies in the assertion that German migration and integration law has lost its guiding principle. The older, and themselves controversial, principles of assimilation and multiculturalism have, it is often claimed, now been replaced by a cacophony of different voices, lacking all coherence. When granting permanent residence permission or citizenship, what should be tested in order to comply with the "integration mandate" of German immigration law? The legislation displays a degree of regulatory weakness or even abstinence from regulation. For our project, several questions arise regarding immigration law:

- What effect do different guiding principles have on shaping national integration law (what is their significance for legal policy)?
- What effect do guiding principles have on the way the law is applied by government agencies, citizens, and migrants (what is their significance for the application of law)?
- Is there a congruence of content between the guiding principles applied in the various subsystems within a multilevel legal system (what is their significance for the systematization of law)?

Our study begins with a historical analysis of the guiding principles and how they have changed in the Federal Republic of Germany. Based on legal methods, case analyses, and interviews with experts, the following questions will be addressed: (1) From an actor-related perspective: Who produces the guiding principles? Do German nationals produce them for migrants (i.e., over their heads), or do both participate in their development? (2) From an institutional perspective: Who adopts the guiding principles—produced elsewhere—into the legal system? (3) Finally, how congruent or non-congruent are guiding principles in different fields of law (residence law, social legislation, educational law)? Equal or unequal treatment in law is the key reactive and steering instrument of the legal order. It is on this basis that legally anchored inequalities arise as reactions to perceived societal heterogeneity (for example the distinction between "integrated" and "nonintegrated" migrants).

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