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The Yugoslav Gastarbeiter: The Guest Who Stayed for Dinner

I. INTRODUCTION

One of the most interesting phenomena in post-World War II Western Europe has been the utilization of guest workers mainly from countries in the Mediterranean Basin.¹ The influx of guest workers was caused partly by the remarkable recovery of Western European economies after World War II due, in large measure, to economic programs such as the massive United States Marshall Plan.² As industrialization in Europe expanded, shortages of workers developed.³ The shortages were especially acute for menial and manual jobs that nationals shunned in favor of higher-paying jobs.⁴ In order to alleviate worker shortages, foreign guest workers were allowed into Western European democracies on a temporary basis, initially signing contracts for periods of time ranging from one to two years.⁵ Eventually, many of these workers decided to stay in the countries in which they worked.⁶

As long as the economies of Western European countries were thriving, guest workers were not considered a problem and were tolerated. The situation first changed drastically with the oil crisis of the early

¹ Reimann & Reimann, *Federal Republic of Germany*, in INTERNATIONAL LABOR MIGRATION IN EUROPE 64 (R. Krane ed. 1979)[hereinafter INTERNATIONAL LABOR]. Major groups of immigrants came from such countries as Yugoslavia, Turkey, Italy, Greece, Spain, and Portugal. In all, at least 15 million workers and their dependents have been involved in the post-World War II migratory worker movement. *Id.*

² See generally C. NEE, THE MARSHALL PLAN: THE LAUNCHING OF THE PAX AMERICANA (1984).

³ M. MILLER, FOREIGN WORKERS IN WESTERN EUROPE: AN EMERGING POLITICAL FORCE 7-10 (1981). Up to this time, foreign labor was not necessary since Western European labor needs were satisfied by the massive influx of expellees and refugees from the Eastern Zone. *Id.*

⁴ P. GUPTA, THE CROWDED EARTH: PEOPLE AND THE POLITICS OF POPULATION 228-29 (1984). Guest workers were actively recruited to build roads and houses, work in hotels and restaurants, work in automobile and electronics factories, and keep the streets clean. *Id.*

⁵ M. MILLER, *supra* note 3, at 16-17. According to Miller: "[a]fter the first year, foreign workers qualify for permits that confer progressively greater employment and residency rights." *Id.* After eight years most guest workers can qualify as permanent resident aliens; citizenship is far more difficult to achieve. *Id.*; see *infra* note 42. See also J. BERGER, A SEVENTH MAN: MIGRANT WORKERS IN EUROPE (1975)(a moving account of the life of a guest worker from his decision to leave home in search of work to his decision to return).

⁶ M. MILLER, *supra* note 3, at 6-7.

1970s. Guest workers then became convenient scapegoats for unemployed nationals who, in turn, pressured their governments to send guest workers home.⁷ Similar problems have reappeared in recent years as the economies of Western European countries have suffered serious recessions.⁸

The Federal Republic of Germany (the "FRG") has recently offered cash payments to guest workers and their families as incentives to leave the country.⁹ Immigrant organizations argue that the "payment-to-leave plan," which expired in mid-1984, was the first phase in the implementation of a forced repatriation program.¹⁰ How the FRG handles the guest worker issue will set the pattern for the rest of Western Europe, since the German situation is a microcosm of a European-wide problem.¹¹ Accordingly, this Comment will specifically concentrate on the FRG.

Yugoslavs are the second largest contingent of foreign workers in Europe and come from a country that is in the midst of economic, social, and political upheaval. The guest worker issue also has similar consequences in the FRG. This Comment, then, will emphasize the large Yugoslav labor force in the FRG.

First, this Comment will trace the history of the German use of guest workers, summarize the economic, political, and social situations of the FRG and Yugoslavia, and evaluate the current status of Yugoslav guest workers in the FRG. Next, the Comment will argue that forced repatriation could have a disastrous effect on the economies of both the FRG and Yugoslavia—that a forced repatriation program is a short-sighted temporary solution having long-term consequences. Finally, the Comment will conclude that a return of guest workers could intensify political and social unrest in Yugoslavia.

II. GUEST WORKERS IN THE FRG

A. Historical Use

Germany has a long tradition of employing foreign workers. The

⁷ P. GUPTA, *supra* note 4, at 227-28.

⁸ *Europe's Immigration Battles*, U.S. NEWS & WORLD REP., Mar. 31, 1986, at 25-27; *see also Immigration: Fear of Foreigners*, THE ECONOMIST, Nov. 2, 1985, at 44 (fear of foreigners is stirring in Western Europe and becoming a powerful issue).

⁹ *Id.* at 238. The FRG labor minister estimated that more than 85,000 of the approximately 300,000 unemployed foreigners would have qualified for the cash payment program. If all qualified persons had taken advantage of the program, it would have cost the FRG about \$110 million. The resulting savings in unemployment pay and welfare benefits would have been about \$50 million. The program failed. *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 228.

practice started in the nineteenth century in response to worker shortages caused by rapid industrialization requiring a large labor pool.¹² Temporary migrants from agricultural areas of adjacent countries supplied the needed labor.¹³ By the early 1900s, up to one million foreign workers had moved into Germany.¹⁴ In addition, thousands of other workers came to Germany to do seasonal work.¹⁵ This massive influx of foreigners spurred a growing xenophobia in Germany.¹⁶ This irrational fear of *Überfremdung* (over-foreignization) culminated in Hitler's reign of terror.¹⁷

Following World War II, two major factors encouraged migration into the FRG: 1) the reduced size of the country; and 2) the division of the country into different political zones.¹⁸ Both zones were confronted with relocating inhabitants of former provinces into their reduced territory.¹⁹ Nearly twelve million Germans who lived in the territories lost after World War II and in other parts of Eastern Europe arrived in the three Western zones of Germany that became the FRG.²⁰ Subsequently, between 1950 and 1972, more than 800,000 evacuees of German extraction from Poland and the Soviet Union also arrived.²¹ At the same time, more than 100,000 non-German refugees decided not to return to their native countries, but chose to remain in the FRG.²²

The second critical factor of postwar migration into the FRG was political in nature. When the Soviets began installing a communist regime in the German Democratic Republic (the "GDR"), many Germans voted with their feet and crossed over into the FRG. Before the GDR and the Soviet Union erected the Berlin Wall in 1961, more than three million people had already left Eastern Europe.²³

Although most of these migrants were employable single males, the employment situation was still unstable in the first decade after World War II due to a war-weakened economy and a damaged infrastructure.²⁴

¹² See generally Reimann & Reimann, *supra* note 1. Acute needs for unskilled industrial workers were initially filled by German agricultural workers. This, in turn, emptied the agricultural labor market. *Id.*

¹³ *Id.* Most of the workers came from Poland and other parts of Eastern Europe.

¹⁴ *Id.*

¹⁵ *Id.* at 65.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 63.

¹⁹ *Id.*

²⁰ *Id.* The three Western zones were controlled by the United States, Great Britain, and France.

²¹ *Id.*

²² *Id.* Most of the refugees stayed because of the communization of Eastern Europe.

²³ *Id.*

²⁴ *Id.* at 63-64.

By the early 1950s, the situation began to change as trade and industry recovered. Both critically needed foreign financial support from the Marshall Plan and the recovery of other Western European economies led to this turnaround.²⁵ By 1955, it was clear that the labor force in the FRG was insufficient to keep pace with broad economic growth. The FRG decided to permit the entry of foreign workers into the country and signed bilateral treaties with a number of countries to facilitate recruitment.²⁶ As it had turned to foreign workers during the rapid industrialization of the early 1900s, the FRG once again turned to foreign workers to supply needed labor.²⁷ It must be emphasized that, while the official German administrative terms for migrant workers are *Ausländische Arbeitnehmers* (foreign employees or workers) and *Ausländische Arbeitskräfte* (foreign manpower), the popular label for foreign workers is *Gastarbeiters* (guest workers or temporary workers). This phraseology more precisely depicts the uncertain status of the foreign worker in German society.²⁸

The guest worker population more than tripled from 686,000 in 1961 to 2,318,000 in 1968 as the FRG experienced unprecedented growth.²⁹ In 1961, 66% of the foreign population was employed; by 1968 only 57% of the foreign population was employed. The growing number of foreign dependents in the FRG was partly the result of a government policy which allowed guest workers who had spent a year in the FRG to bring in spouses and children under eighteen years of age.³⁰ By 1974, guest workers represented 10% of the FRG's work force.³¹ The postwar labor migration peaked in 1974, at which time the FRG had a foreign population of more than four million, representing about 7% of the total population.³²

The early-1970s was critical for the guest worker system in the FRG. The energy crisis of 1973 and the economic recession that followed provoked a government freeze on the further recruitment of for-

²⁵ *Id.* at 64.

²⁶ *Id.* at 66. The FRG signed bilateral treaties with Italy in 1955, Greece and Spain in 1960, Turkey in 1961, Morocco in 1963, Portugal in 1964, Tunisia in 1965, and Yugoslavia in 1968.

²⁷ See *supra* notes 12-17 and accompanying text.

²⁸ *Id.* at 65-66. The widespread use of the unofficial label *Gastarbeiter* reflects the indecisive policy of the FRG. The term implies the attempt of the German population to assume a new attitude toward foreigners who are vital to the economy of the FRG while still emphasizing the idea of a temporary stay for guest workers. *Id.* at 66.

²⁹ M. MILLER, *supra* note 3, at 10.

³⁰ *Id.*

³¹ *Id.* Up to this point in time more than two million work permits had been issued to guest workers.

³² *Id.*

eign workers.³³ Although this halt in recruitment significantly decreased the number of employed foreigners, the foreign population stabilized rather than decreased.³⁴ The population loss resulting from unemployed foreigners returning to their home countries was offset by two major phenomena: 1) a relatively high birthrate among foreigners; and 2) the arrival of dependents not affected by the recruitment bans.³⁵ The number of guest workers employed in the FRG dropped from 2.4 million in 1974 to 1.9 million in 1977 while the total foreign population dropped only slightly—from 4.1 to 3.9 million.³⁶ Relatively few workers were pressured to return home, and the vast majority of workers who did return home after 1973 left voluntarily.³⁷

B. Guest Workers in the 1980s

The onset of another serious economic recession in the 1980s has presented a more serious problem. Unlike the recovery in the United States, recovery in Europe has been a slower process. For this reason, guest workers once again have become a major political issue. Long-standing tensions fueled by economic hardships made guest workers a natural target. After Helmut Kohl became Chancellor of the FRG in 1982, the government formed a commission to investigate the guest worker dilemma.³⁸ The commission proposed a number of objectives and recommendations: 1) to integrate foreigners into West German society; 2) to limit the number of foreigners allowed to settle in the FRG; 3) to provide economic incentives for guest workers and their families to return to their homelands; 4) to impose stricter controls on the influx of guest workers' families; and 5) to discourage extremist foreigner groups who espouse radical politics.³⁹ The FRG instituted these recommendations in 1983. At the same time, the government set standards for permanent residence but did not set standards for citizenship. Guest workers must: 1) have legitimate jobs; 2) be fluent in German; 3) secure proper housing for their families; 4) secure proper educational facilities

³³ *Id.* Though the economic situation was given as the official reason for implementing the freeze, sociopolitical tensions also contributed to the decision.

³⁴ *Id.* at 10-11. Throughout Western Europe, more than two million jobs were lost. *Id.* at 11.

³⁵ *Id.*

³⁶ *Id.* at 12.

³⁷ *Id.* at 11.

³⁸ P. GUPTE, *supra* note 4, at 230. Chancellor Kohl's goal was a humane immigration policy. The commission consisted of officials from agencies most directly involved with guest workers as well as representatives from each of the 10 federal states. *Id.*

³⁹ *Id.* at 230-31. The commission's report was submitted in early 1983. The first three objectives had been initially proposed by Chancellor Kohl. The fourth and fifth objectives are stricter regulations recommended by the commission itself. *Id.*

for their children; and 5) not be fugitives from the law in their native countries.⁴⁰

Guest workers are guaranteed the same pay, vacation, fringe benefits, bonuses, and protection against unlawful dismissal as other workers in the FRG.⁴¹ Their status at work and chance of promotion, however, are lower than that of their German counterparts. This is due, in part, to unprotected rights as to residence and work, inadequate education, cultural differences, and especially lack of fluency in German.⁴² Guest workers are left to make the best of a difficult situation. Incentives to guest workers and their families to leave the country were in force until the summer of 1984. The government offered the equivalent of \$3,600 to each adult as well as \$500 per child for the family to leave the country and not return.⁴³ Some companies also offered four months' pay plus one-third of a month's pay for each year of service to departing guest workers.⁴⁴ Although some workers returned to their homelands, the program did not prove successful.

III. THE FRG TODAY: AN ECONOMIC, SOCIAL, AND POLITICAL ANALYSIS

The FRG is still in the midst of an economic slowdown. The unemployment rate has started to decline but still stands at approximately 9%—or more than two million unemployed.⁴⁵ For guest workers, the situation is more critical. Guest worker jobs tend to be concentrated in recession-sensitive fields, such as construction and automobile manufacturing. Estimates show that more than 500,000 of the approximately 1.8 million guest workers are unemployed, which converts to an unemployment rate of approximately 27% of the guest worker population.⁴⁶ Even though guest workers have been hurt more than average German workers, guest workers are still targets for unemployed Germans and radical right-wing political parties. Many Germans are disturbed by competing

⁴⁰ *Id.* at 231. See also Reimann & Reimann, *supra* note 1, at 68. Attaining citizenship is a very difficult proposition. A minimum residence of 10 years is required and other prerequisites must be fulfilled such as language competency and knowledge of the history and laws of the FRG. Even then, the final decision is at the discretion of government administrators who must decide if the grant of citizenship is in the best interests of the FRG. *Id.*

⁴¹ Reimann & Reimann, *supra* note 1, at 78.

⁴² *Id.* Guest workers enjoy equal rights with respect to social benefits. They do not, however, have any voting rights and cannot hold public office unless they are citizens. Sweden is the only Western European country to allow guest workers to vote in local and regional elections. *Id.*

⁴³ N.Y. Times, Dec. 22, 1982, at A9, col. 6.

⁴⁴ *Id.*

⁴⁵ *Survey West Germany*, THE ECONOMIST, Dec. 6, 1986, at 1.

⁴⁶ *Id.* at 29.

against foreigners for jobs, welfare benefits, and public housing.⁴⁷ Jobs that German nationals shunned as menial in the past are suddenly more desirable in the face of troubled economic times. Anti-guest worker sentiment was echoed in the 1983 election theme: "Send them back home and give their jobs to unemployed Germans."⁴⁸ Chancellor Kohl and his ruling coalition continue to advocate the commission's conclusions and recommendations as the correct policy although opposition parties' views differ.⁴⁹ Some opposition parties propose a more liberal approach to the issue, while more radical parties insist that the ultimate objective should be to return guest workers to their native lands.⁵⁰ At the present time, the controversy still rages as the rest of Western Europe looks to the FRG and the stand it will eventually take.

IV. YUGOSLAVIA TODAY: AN ECONOMIC, SOCIAL, AND POLITICAL ANALYSIS

To understand fully the implications of any decision by the FRG concerning guest workers, it is essential to examine the issue from the Yugoslav perspective. The Yugoslav economy is reeling from a foreign debt of \$19 billion, an unemployment rate of 15%, and an inflation rate of 100%.⁵¹ In the past few years, food shortages and rationing have become a permanent factor in daily life.⁵² The average Yugoslav citizen spends approximately 65% of personal income on food.⁵³ Yugoslavia's self-management economy, praised in the past by some economists, has evolved into what has been labeled a "self-mismanagement" economy.⁵⁴

The current economic difficulties, however, are the worst since the early 1950s, when the government of Josep Broz Tito was almost toppled. Massive influxes of foreign aid allowed that government to weather the storm.⁵⁵ Yet the present day situation is also critical. The serious

⁴⁷ P. GUPTA, *supra* note 4, at 227-28.

⁴⁸ *Id.* at 229. A foreign affairs analyst has labeled guest workers as "guests who did not go home." He added, "Germans are beginning to say that these people have overstayed their welcome. It's a dismaying situation and potentially explosive indeed." *Id.*

⁴⁹ *Id.* at 231-33.

⁵⁰ *Id.*

⁵¹ Russell, *Other Heresies*, TIME, Jan. 6, 1986, at 63. See also No, *Prime Minister*, THE ECONOMIST, Mar. 31, 1987, at 81 (70% of Yugoslavia's total hard currency debt is owed to EEC countries as was 87% of its \$1.5 billion 1986 trade deficit).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ See, e.g., Djilas, *Yugoslavia's Crisis*, N.Y. Times, Nov. 23, 1983, at A23, col. 1. Djilas is the last surviving architect of "Yugocommunism." Djilas's appraisal of Yugoslavia today advocates the evolution of the Yugoslav system into a democracy.

⁵⁵ S. PAWLOWITCH, YUGOSLAVIA 223-24 (1971). From 1950 to 1959, foreign aid, mostly from the United States, totalled between \$2 and \$2.5 billion.

economic problems have caused unrest in a nation that already has severe problems controlling nationalist feelings in its republics and autonomous provinces.⁵⁶ Yugoslavia's economic difficulties have forced the government to implement severe austerity measures in order to qualify for much-needed international loans. Such austerity measures tend to produce social unrest,⁵⁷ which is further complicated by ethnic and regional political problems in Yugoslavia.⁵⁸ In addition, important economic decisions are made at the local level by the six republics and the two autonomous provinces that comprise Yugoslavia. This system, which combines authoritarianism and decentralization, seems incapable of solving the economic problems that fuel political and social unrest.⁵⁹

Yugoslavia has two options: to democratize or to become more repressive.⁶⁰ Yugoslavia appears to have opted for the latter. The use of added repression is calculated to ensure that economic difficulties do not provoke labor and consumer unrest which could lead to demands for basic social and political reforms. Nevertheless, labor and consumer unrest has become a problem in recent months.⁶¹

V. THE YUGOSLAV GUEST WORKER

Decisions affecting guest workers should reflect not only the concerns of the FRG and Yugoslavia, but also the interests of the Yugoslav guest worker population. Of the estimated 1.8 million guest workers in the FRG, more than 340,000 are Yugoslav.⁶² The widespread use of the label *Gastarbeiter*⁶³ illustrates the German attempt to recognize the contribution of these foreigners to the economy, while also emphasizing the idea of a temporary stay.⁶⁴ This idea reflects the mind set that the labor shortages are short-term. Time, however, has shown that the shortages

⁵⁶ See, e.g., Djilas, *supra* note 54, at A23; *The Stirrings of Yugoslavism*, THE ECONOMIST, Feb. 21, 1987, at 81.

⁵⁷ AMNESTY INTERNATIONAL, YUGOSLAVIA PRISONERS OF CONSCIENCE 11-17 (1985) [hereinafter REPORT ON YUGOSLAVIA].

⁵⁸ *Id.* at 5.

⁵⁹ *Id.* at 1-7.

⁶⁰ Djilas, *supra* note 54, at A23.

⁶¹ No, Prime Minister, *supra* note 51, at 81. For additional discussion of the problem of repression, see Yuenger, *Would-be Yugoslav 'Voice' is Told: Be Still*, Chicago Trib., Apr. 7, 1987, at 1, col. 3.

⁶² PRICE WATERHOUSE, DOING BUSINESS IN GERMANY 8 (1983). The Yugoslav population of over 340,000 is second only to the Turkish population of more than 580,000. The next two major groups are Italians and Greeks with populations of over 290,000 and approximately 124,000, respectively. Counting other European countries, more than 500,000 Yugoslav workers are abroad. *Id.*

⁶³ See *supra* notes 26-28 and accompanying text.

⁶⁴ *Id.*

are indeed long-term.⁶⁵

Many Germans argue that guest workers should not be permitted to remain long enough to fulfill the requirements for naturalization; that is, guest workers should not overstay their welcome.⁶⁶ One commentator labels this belief that guest workers could and would want to return home after brief trips abroad as the “myth of return.”⁶⁷ Statistics show just the opposite—that a sense of permanency is the norm among guest workers. By 1976, more than 800,000 guest workers had lived in the FRG for at least ten years and more than 1.1 million had lived in the FRG for at least seven years.⁶⁸ The “myth of return” rests on a misguided assumption that guest workers could be forced to leave *en masse* or that they would repatriate of their own volition.⁶⁹ Very few guest workers have been forced to leave the FRG involuntarily, while many more than originally anticipated are staying on as long-term residents.⁷⁰ The longer they stay, the better their chances of political involvement in FRG politics.⁷¹

The Yugoslav guest workers' history in the FRG began in the early 1950s with a spontaneous and primarily illegal entry in search of employment and higher wages.⁷² The emigration took on significant proportions in the early 1960s.⁷³ By 1964, the Yugoslav government had accepted the practice of labor emigration as a reaction to internal socio-economic conditions.⁷⁴ In 1969, Yugoslavia signed a bilateral employment agreement with the FRG regulating employment and ensuring the rights of Yugoslav workers in the FRG.⁷⁵ As a result of the bilateral agreement, the number of Yugoslav workers in the FRG stood at more than 400,000 by 1970.⁷⁶ This figure dropped by 1982 to 367,000.⁷⁷ In

⁶⁵ M. MILLER, *supra* note 3, at 9.

⁶⁶ *Id.*

⁶⁷ *Id.* By 1970 the “myth of return” began to dissipate as guest workers populations became more permanent. Such a recognition required a rethinking of governmental policies towards guest workers. See also, W. BOHNING, *STUDIES IN INTERNATIONAL LABOUR MIGRATION* 127 (1984).

⁶⁸ M. MILLER, *supra* note 3, at 12. Similar figures are present in the other Western European democracies.

⁶⁹ *Id.* at 2, 6.

⁷⁰ *Id.* at 6-7.

⁷¹ *Id.* at 7. Guest workers are emerging as a political force that will have a significant influence on the domestic and foreign politics of both the host and sending countries in the future.

⁷² I. BAUCIC, *THE EFFECTS OF EMIGRATION FROM YUGOSLAVIA AND THE PROBLEMS OF RETURNING EMIGRANT WORKERS* 2 (1972).

⁷³ *Id.* The number of guest workers rose from about 8,800 in 1961 to more than 23,000 in 1962.

⁷⁴ *Id.*

⁷⁵ *Id.* More than two-thirds of Yugoslav guest workers are employed in the FRG. The rest are employed in Austria, France, Sweden, and Switzerland.

⁷⁶ *Id.* See also Tanic, *Yugoslavia* in *INTERNATIONAL LABOR*, *supra* note 1, at 174. By the mid-1970s some 650,000 Yugoslavs were guest workers. With dependents, this figure was close to 1

the past few years, the population has remained relatively stable.⁷⁸

Male Yugoslav guest workers are concentrated in two major job categories representing 75% of all employees: metal production and construction. Female guest workers are employed in the sectors of private services, electrical goods, public services, and textiles.⁷⁹ Unlike earlier Yugoslav guest workers who were employed in agricultural jobs, many present Yugoslav guest workers hold skilled jobs.⁸⁰ Statistics show that 54% of guest workers are in skilled and supervisory positions, 34% are in semiskilled positions, and only 12% are in unskilled positions.⁸¹ Such a distribution results in a higher socioeconomic status for Yugoslav guest workers.

This exodus of skilled labor from Yugoslavia in the late 1960s and early 1970s may be explained in part by lower wages in Yugoslavia.⁸² The average monthly wage for a worker in Yugoslavia at that time was approximately \$80 per month compared to \$255 per month in the FRG.⁸³ The present economic crisis in Yugoslavia has intensified this disparity. The average monthly salary in the FRG for a male industrial employee had risen to \$785 by 1983, while in Yugoslavia the average had risen to only \$150.⁸⁴ Factors such as high inflation and economic shortages in Yugoslavia greatly magnify the difference. More than 80% of guest workers surveyed viewed migration as the means to make more money, get out of poverty, or improve their future.⁸⁵

At the same time, the Yugoslav government has taken measures to

million. A total of 1.5 million Yugoslavs were outside of the country, representing 7% of the total population. The following were abroad:

- 9% of the total male population,
- 12% of the male active population,
- 18% of the male active population aged 24-34,
- 11% of the active agricultural population,
- 14% of the active male agricultural population,
- 24% of the active male agricultural population aged 24-34,
- 12% of industrial workers, and
- 14% of industrial workers aged 24-34.

Id.

⁷⁷ S. CASTLES, *HERE FOR GOOD: WESTERN EUROPE'S NEW ETHNIC MINORITIES 75-77* (1984).

⁷⁸ *Id.*

⁷⁹ S. CASTLES & G. KOSACK, *IMMIGRANT WORKERS AND CLASS STRUCTURE IN WESTERN EUROPE 70-73* (1985).

⁸⁰ *Id.* at 71.

⁸¹ S. CASTLES, *supra* note 77, at 134.

⁸² I. BAUCIC, *supra* note 72, at 6. *See also* Reimann & Reimann, *supra* note 1, at 78. A general survey of guest workers across ethnic groups in FRG showed that 50% saw migration as a means to earn more money.

⁸³ *Id.* at 8.

⁸⁴ PRICE WATERHOUSE, *supra* note 62, at 43.

⁸⁵ Reimann & Reimann, *supra* note 1, at 78.

help preserve ties with guest workers. Based on bilateral agreements, Yugoslavia sends large quantities of newspapers, books, films, textbooks, and radio and television programs to Yugoslav clubs and organizations in the FRG.⁸⁶ A major goal is to preserve national identity and social homogeneity among the Yugoslav guest workers. A corollary purpose, however, is the attempt to lessen the influence of revolutionary organizations operating in the Yugoslav worker communities abroad.⁸⁷

With the communist takeover of Yugoslavia in 1945, the battle for many of the revolutionary organizations has become dual-faceted: to overthrow the communist government and to gain independence for a particular state or province. It has been estimated that more than 50,000 Yugoslavs are involved in radical organizations in the FRG.⁸⁸ These organizations actively recruit Yugoslav workers. The support that these counterrevolutionary organizations have received is a major source of concern for the Yugoslav government and is considered a serious security threat.⁸⁹ In addition, other Eastern European regimes have expressed concern over the development of anticommunism among Yugoslav workers in the FRG.⁹⁰ Yugoslavia's security forces have attempted to weaken the influence of these opponents through a series of measures ranging from influencing public opinion to assassinating political figures.⁹¹

Such political complications seem to explain, in part, Yugoslav policies with regard to return migration—the ultimate objective of repatriation programs.⁹² Guest workers who return to Yugoslavia are faced not only with prolonged unemployment but also with greatly increased difficulties of rejoining a culture they left behind.⁹³

Yugoslav guest workers are thus put in a difficult position because of their temporary status in the FRG and because of the economic and political difficulties in their homeland. Resolution and clarification of the guest worker issue is extremely important. The balance of this Comment discusses the impact that repatriation would have on both the FRG and Yugoslavia.

⁸⁶ Tanic, *supra* note 76, at 179.

⁸⁷ M. MILLER, *supra* note 3, at 54-55.

⁸⁸ *Id.* at 54.

⁸⁹ *Id.* at 56.

⁹⁰ *Id.*

⁹¹ REPORT ON YUGOSLAVIA, *supra* note 57, at 7-9. Critics, while not condoning terrorism, have been quick to condemn drastic tactics when exercised to silence pure political criticism.

⁹² Tanic, *supra* note 76, at 185.

⁹³ See generally CENTRE FOR SOCIAL DEVELOPMENT AND HUMANITARIAN AFFAIRS, MIGRANT WORKERS, U.N. Doc. ST/ESA/132 (1983)[hereinafter MIGRANT WORKERS].

VI. A POLICY OF REPATRIATION

A. Introduction

One of the major criticisms of the FRG's cash payment incentive plan⁹⁴ was that it could have been an initial step in the implementation of some form of forced repatriation. While the ruling Christian Democratic Party in the FRG emphasized that no such plan of forced repatriation was contemplated, smaller political parties advocated such a plan.

Ironically, a policy of some type of repatriation is neither feasible nor desirable for either the FRG or Yugoslavia. From economic, political, and social viewpoints, a worker return would disrupt both countries and intensify economic and political difficulties. In fact, guest worker populations are no longer transitory; they have stabilized because of the desire of workers to spend a lifetime working in the FRG. The key word "guest" is a misnomer which should be replaced by a permanent resident status. Workers and their families in many instances have spent more than a decade in the FRG and the younger generation that has reached adulthood aspire to the same goals as do German youth.⁹⁵

B. The Effect on the FRG

The high unemployment rates during the recession of the early 1980s made repatriation, at first glance, an effective means of getting unemployed Germans back to work. Yet it should be emphasized that many of the jobs that guest workers hold are those ordinarily shunned by German workers. Manual and menial jobs seem more desirable in such troubled economic times. As economic conditions brighten, however, German workers will undoubtedly attempt to recapture more desirable jobs. The result will be a new worker shortage that will once again demand the influx of foreign workers.

Many Germans believe that a policy of repatriation will have a disastrous effect on the economy. A recent study conducted by the Center for Political Education in Bonn shows that the FRG would be beset with economic difficulties by the departure of guest workers from the labor force.⁹⁶ Statistics from the study estimate that 25% of the miners, 35% of highly-skilled auto workers, and 14% of the doctors in the FRG are foreigners.⁹⁷ The study concludes that if all foreigners left the FRG, to-

⁹⁴ See *supra* notes 41-42 and accompanying text.

⁹⁵ P. GUPTE, *supra* note 4, at 234 (citing J. POWER, *MIGRANT WORKERS IN WESTERN EUROPE AND THE UNITED STATES* (1979)).

⁹⁶ P. GUPTE, *supra* note 4, at 229.

⁹⁷ *Id.*

tal chaos would result. Parts of the FRG would lose from 8% to 13% of their population, railway traffic would be paralyzed, generation of electric power would be severely curtailed, auto plants could not keep their assembly lines operating, and hotels and restaurants and public services performed by the government would be ill-staffed.⁹⁸ In short, the FRG would have serious difficulties coping with the massive disruption of the valuable services guest workers provide.

Another purpose of the study by the Center for Political Education was to warn of the mounting prejudice against guest workers.⁹⁹ Of critical concern in this regard is the decline in the German birth rate. The annual number of births fell from one million in the mid-1960s to less than 500,000 by the mid-1970s.¹⁰⁰ By the early 1980s, this figure had dropped even further to 300,000 births.¹⁰¹ If this trend continues, demographers predict that the ethnic German population of fifty-five million could drop to about forty million by the year 2030.¹⁰² On the other hand, the birth rate of foreigners continues to increase, with the number of births to guest workers higher than those to ethnic Germans in some areas.¹⁰³ To some Germans, this population trend is alarming.

The high guest worker birth rate and the uniting of guest worker families in the FRG also affects the German school system. Within the past decade, the number of foreign students has increased fivefold.¹⁰⁴ German parents complain that the presence of non-German students has substantially impaired the standard and quality of education. Critics point out that 60% of non-German students fail to get diplomas and contend that this results in a sense of bewilderment and bitterness among non-German students.¹⁰⁵ At the same time, a second generation of im-

⁹⁸ *Id.* at 230.

⁹⁹ *Id.* at 229. See also Francis, *West Europe's Guest Workers: Living Conditions Have Improved, but Discrimination Persists*, *Christian Sci. Monitor*, Jan. 25, 1985, at 9-10 (migrant workers, although better off financially, still face discrimination); Echickson, *Racism in Europe: Europe Tightens up on Immigration*, *Christian Sci. Monitor*, Apr. 26, 1984, at 20-21 (FRG is experiencing increasing tension over the status of immigrants).

¹⁰⁰ P. GUPTE, *supra* note 4, at 231. See also Francis, *As German Population Shrinks, Economic Questions Multiply*, *Christian Sci. Monitor*, July 25, 1985, at 11. The population of the FRG is declining by approximately 0.3% per year. If this trend continues, the population may be reduced from 60 million today to 38 million by the year 2035. *Id.*

¹⁰¹ P. GUPTE, *supra* note 4, at 231. In addition, fewer than 100 children are born for every 100 marriages. The result is that more than two-thirds of all families have two or fewer children. The number of marriages has declined from nearly 450,000 in 1970 to fewer than 300,000 in 1982.

¹⁰² *Id.* at 232.

¹⁰³ *Id.* Demographers estimate that the foreign population may double by 1990 from 5 million to 10 million.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

migrant children have entered the labor market. These children have passed through the German school system and share rising expectations with German youth. Consequently, Yugoslav youth prefer not to do the type of work which attracted their parents.¹⁰⁶ This second generation is thus in direct competition with German workers for more skilled jobs, thereby contributing to further tension.

All these factors combine to create a difficult situation for guest workers and their families in the FRG. The average German should recognize that the guest worker plays a critical role in ensuring a healthy economy. Current economic conditions reflect many factors, only one of which is the presence of guest workers. For this reason, steps must be taken to assist guest workers in gaining permanent status, more political influence, and a better adjustment to life in the FRG.

C. The Effect on Yugoslavia

For Yugoslavia, the possibility that the FRG may institute some system of repatriation is a critical concern. The emigration of Yugoslav workers was conceded as a necessary consequence of economic difficulties which began in the 1950s and has resurfaced with a vengeance in the 1980s. The return of guest workers would be a double blow for the Yugoslav economy. First, Yugoslavia cannot absorb hundreds of thousands of newly unemployed workers. Jobs are very scarce and the workers' return could at least double the unemployment rate.¹⁰⁷ Second, repatriation would result in an acute shortage of hard currency. Presently guest workers either send salaries earned in the FRG back to Yugoslavia or keep the earnings in Yugoslav banks. This money provides the central government with much-needed foreign currency. Assuming that the 350,000 Yugoslav guest workers in the FRG make the average monthly industrial salary, they earn \$275 million per month or more than \$3 billion per year. The loss of this money would severely hamper the ability of the Yugoslav government to provide welfare benefits. Providing severance money to the workers would help postpone the problem, but only for a short period of time. Prior experience indicates that the severance pay will be used to build a home, buy a car, or buy agricultural machinery, thus quickly depleting the reserves brought back into the country.¹⁰⁸ From an economic standpoint, the Yugoslav government finds it desirable to maintain a large work force abroad which sends back much-needed

¹⁰⁶ *Id.* at 234 (citing J. POWER, *supra* note 95).

¹⁰⁷ Nearly one million persons are unemployed in Yugoslavia. A large influx of guest workers could push this figure to more than 1.5 million.

¹⁰⁸ I. BAUCIC, *supra* note 72, at 24-33. See also MIGRANT WORKERS, *supra* note 93, at 42.

foreign currency.¹⁰⁹

Yugoslavia's economic difficulties contribute to its present political difficulties. Nationalistic feelings are becoming increasingly difficult to control. The return of hundreds of thousands of guest workers would create even more problems for an authoritarian system that is attempting to maintain power in the face of increasing pressures to democratize. The possible return of workers who have lived for years in Western democracies and have been exposed to the views of various antigovernment forces threatens the present Yugoslav government.¹¹⁰ Consequently, the Yugoslav government is uneasy about the policy of repatriation of guest workers.

VII. CONCLUSION

Repatriation is against the interests of both the FRG and Yugoslavia. From an economic viewpoint, any major form of forced repatriation will greatly affect the FRG economy which is becoming increasingly dependent on guest workers. A loss of the valuable services that guest workers provide may create a critical economic slowdown. At the same time, those Germans who now seem willing to perform the manual and menial labor that guest workers perform will opt for more desirable jobs when the economy recovers. Such a development would again produce a large labor shortage that may precipitate, once again, a guest worker migration.

The situation in Yugoslavia is even more troubling. Economic problems are far more critical and have important political and social implications. Yugoslav guest workers play a dual role: they lessen the unemployment problem in Yugoslavia to a certain extent and provide an important source of much-needed foreign currency. Loss of guest worker employment in the FRG would cripple the Yugoslav economy.

National economic and political concerns should not overshadow the importance of the status of guest workers in the FRG. Many of these workers have opted for permanent residence in the FRG. Many of their children were either born in the FRG or have spent most of their formative years there. Children of guest workers consider themselves to be more German than Yugoslav. Repatriation would pose difficult transitions for guest workers and their families. Consequently, guest workers have been put in a precarious situation. The FRG views guest workers as

¹⁰⁹ P. GUPTE, *supra* note 4, at 237.

¹¹⁰ REPORT ON YUGOSLAVIA, *supra* note 57, at 31-32. In recent years guest workers have been arrested upon their return to Yugoslavia for "participation in hostile activity" under Article 131 of the Federal Criminal Code. *Id.*

guests who have overstayed their welcome; Yugoslavia sees guest workers as workers who should stay abroad. Repatriation is not the solution for either country.

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