

Briefing Notes +

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One million irregular migrants in Germany?

A methodological critique of estimates of irregular migrants in Europe published by Pew Research Center

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SUMMARY

- The estimated figures on irregular migrants in Europe recently published by the Pew Research Center are methodologically incorrect and conceptually flawed in the case of Germany.
- Amongst other things, asylum seekers are incorrectly classified as irregular migrants, although European and German legislation explicitly allows their stay during the asylum procedure.
- When adjusted for incorrectly included groups of migrants as well as for the official number of irregular migrants, the estimates become redundant (zero).

At a Glance

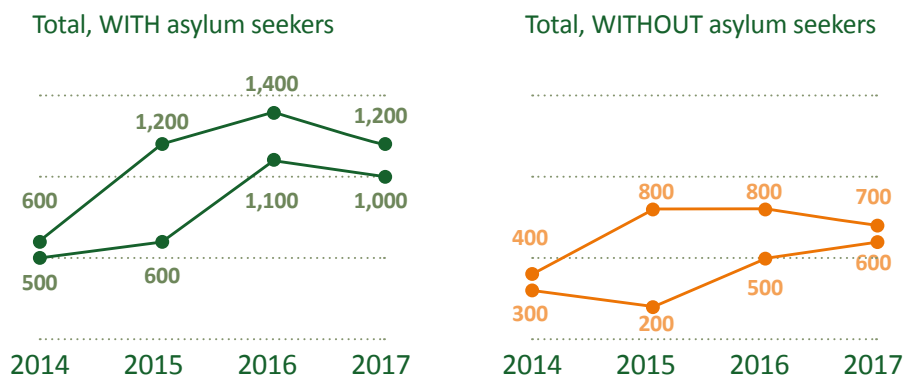
The Washington-based Pew Research Center recently published a [study](#) on irregular migration in Europe, specifically on estimates of the number of **irregular migrants resident in Europe** for the years 2014-2017 (see also the [full report](#)). The authors estimate that the number of unauthorised (i.e., irregular) non-EU-EFTA¹ immigrants, i.e., **third-country nationals** in Europe, was between 3.9 and 4.8 million in Europe in 2017. The report also states that half of this population was living in Germany (1.0 to 1.2 million, see graph 1) and the UK (800,000 to 1.2 million), including asylum seekers. Pew also included a second estimate of between 600,000 and 700,000 irregular residents in Germany, excluding asylum seekers.

Researchers at DeZIM have examined the methodology applied in the study to arrive at the German estimate – making up a quarter of the total estimate – and can assert that the **results are incorrect**. First, there is a **conceptual error** relating to the data sources used which effectively invalidates the estimates produced. Second, there are **definitional problems** in relation to asylum seekers and permit applicants, who are **allowed to stay** for the duration of the procedure. Third, there are **coverage errors** regarding **two additional groups of foreigners** in Germany who are legal residents but which Pew counts as irregular immigrants. Fourth, there is an important caveat relating to tolerated persons (see definition below) which has to be taken into account when producing such estimates.

¹ “EU-EFTA” includes the 28 EU member states plus the four European Free Trade Association (EFTA) countries Iceland, Liechtenstein, Norway and Switzerland. Non-EU-EFTA citizens are usually referred to as third-country nationals.

Graph 1. Pew's estimates for Germany:

Range for the estimated unauthorised immigrant population in thousands, with and without waiting asylum seekers, 2014–2017



Low and high estimates indicate the range of estimates based on various methodological approaches.

Source: Pew Research Center, 2019: 47

From both conceptual and ethical perspectives it is **highly problematic to subsume asylum seekers** (and other legal residents) under irregular migrants. Even if done unintentionally, this framing runs the risk of delegitimising the right to asylum and criminalising persons seeking protection (Panos Europe and UNAOC, 2014: 21).

Indeed, when the Pew estimates are adjusted to correct for this, the estimate for Germany of the number of irregular immigrants **falls to 33,000 – well below the known number**. There are currently no alternative estimates available, the real figure remains unknown. For the time being, the **known number** of persons required to leave should be used: **around 229,000**, of whom 167,000 are tolerated (as of December 2017). In conclusion: only 63,000 persons have no legal option to stay in Germany (Deutscher Bundestag, 2018: 33).

Concepts: Unauthorised or Irregular Migrants

Whereas the term **unauthorised migrants** is more commonly used in the USA, the term **irregular migrants** is the main phrasing to describe the same phenomenon in the European context.² For our purpose, we follow the European Commission's EMN glossary, which **defines irregular migrants in the EU context as third-country nationals** who do **not fulfil** or no longer fulfil the **conditions of entry or stay** (European Commission, 2018). In their study, Pew define unauthorised immigrants as third-country nationals living in the respective EU or EFTA country without residence permits after entry without authorisation, after overstaying their permits or after being ordered to leave (Pew Research Center, 2019: 3). Pew also subsumes asylum seekers and

² In the academic debate, international organisations and EU institutions, there is widespread consensus to cease using the inaccurate, misleading and criminalising term "illegal migrants" (see also the glossary by Panos Europe and UNAOC, 2014: 19).

permit applicants under “unauthorised” migrants, as well as persons who are tolerated. It is also this **highly problematic definition and equating** of asylum seekers and permit applicants as “unauthorised” which is misleading. Whether an immigrant holds a permanent or a temporary permit, is applying for a permit, or does not require any permit due to freedom of movement within the EU – **all of these groups have a legal status**. Asylum seekers are also staying legally, irrespective of how they entered the country.

The Residual Method

The residual method applied by Pew relies on the simple assumption that by subtracting the number of third-country nationals holding valid residence permits from the total number of third-country nationals resident in a country, an estimate of the number of irregular migrants present can be produced (Pew Research Center, 2019: 23):

$$\text{Total foreign noncitizens}^3 - \text{authorized noncitizens} = \text{unauthorised noncitizens}$$

To arrive at its estimate, Pew uses the two most well-known data sources in Germany for foreign citizens. For the **higher bound estimate**, the population statistics published by EUROSTAT (2019a) are used. For the **lower bound estimate**, estimates from the Labour Force Survey (LFS) microdata, also provided by EUROSTAT, are used. We will show below what this attempt actually yields when all components of each term in the subtraction are taken into account.

Error #1: Redundancy of the Applied Residual Method

This residual method **cannot work for Germany due to the structure of the data sources used**. When using the population statistic as the reference population and data from the AZR as a comparative source, the residual becomes negative, because the number of foreigners in general and specifically non-EU/EFTA foreigners in the population statistic is **below** the number of foreigners in the AZR (foreigners’ central register).

The population totals and the number of foreigners resident in Germany reported in DESTATIS’ **statistics of the population** are **identical** to the numbers of persons by citizenship reported to and published by EUROSTAT (DESTATIS, 2019a), the data source Pew uses for the higher bound estimate. The population statistic is based on results of the 2011 census and subsequent demographic events (births, deaths, immigration and emigration). All persons registered, **regardless of the duration of their stay**, are counted for the population statistic,⁴ not only those present for more than one year, as assumed by Pew.

³ “The term noncitizens refers to residents of Europe who are not EU-EFTA citizens, most of whom were not born in EU or EFTA countries.” (Pew Research Center, 2019: 4) In other words, the term “noncitizens” refers to persons not holding any EU or EFTA citizenship. Dual citizens, i.e. those holding any EU or EFTA citizenship plus a non-EU-EFTA one, are not counted in this group.

⁴ EUROSTAT aims to provide harmonised European statistics on the usually resident population, but article 2 (d) of Regulation (EU) No. 1260/2013 explicitly allows national statistical institutes using registered residence as a proxy.

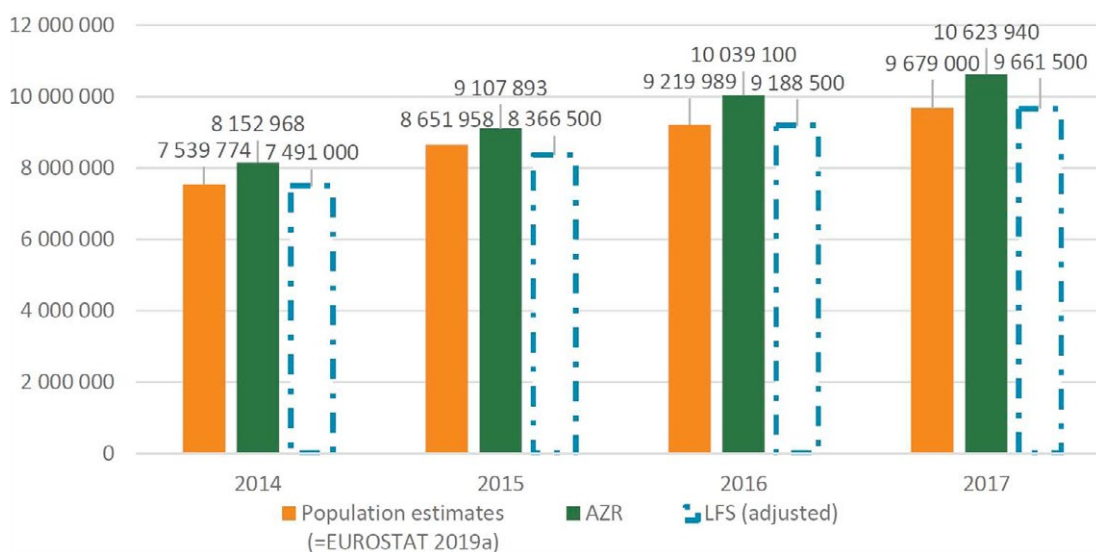
The second data source is the **foreigners' central register** (Ausländerzentralregister, AZR). The data represent the number of foreigners known to authorities in Germany (DESTATIS, 2019b). It is important to note that this includes not only residence permits, but also permit applicants, persons who do not require permits, and persons who are required to leave (with or without being tolerated). The number of authorised noncitizens (i.e. regular third-country nationals) used by Pew, as measured by the number of valid residence permits by 31 December (EUROSTAT 2019b), originates in the AZR.

Conceptually, the only difference between the two data sources is the duration of stay criterion, as the AZR only includes foreign citizens with a **duration of stay of at least 3 months**, while the population statistic can also include persons with shorter periods of stay. Therefore, the number of foreigners in statistics based on the AZR **should be lower** than the number in the population statistic. But due to differing data cleaning and correction efforts and legal constraints to harmonise these statistics, the number of foreigners in the AZR has, since 2011, been consistently **higher** than in the population statistic (see graph 2 for the period 2014-2017).

For comparison, the total number of foreigners (adjusted for the reference date 31 Dec) in the German **Labour Force Survey** (LFS) is shown as well in graph 2. In essence, it is similar to the number of foreigners in the population statistic. The LFS is the data source used by Pew for the lower bound estimate.

Asylum seekers, recognised refugees, beneficiaries of subsidiary protection and others holding a permit on humanitarian grounds are included in all three data sources. Foreign citizens born in Germany are included as well in all data sources (some but not all children of two parents of foreign citizenship receive German citizenship at birth). **Temporary migrants with a duration of stay between 3 and 12 months are also included in all data sources.**

Graph 2. Total number of foreigners in Germany by data source



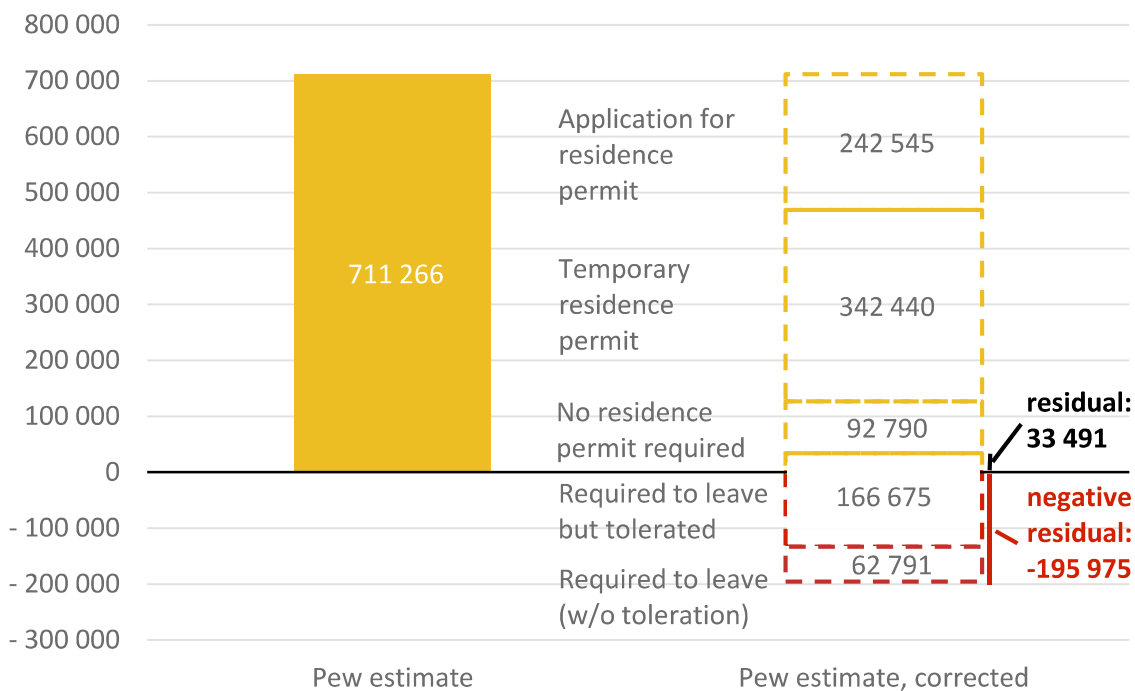
Sources: DESTATIS, 2019a, b,d, own calculation

Pew's higher bound of the estimate excluding asylum seekers can be reproduced.

In detail, subtracting the number of third-country nationals holding a residence permit valid for 12 months or more (4.3 million persons) and asylum seekers (more than 443,000) from the total number of third-country nationals in Germany (5.4 million persons), Pew's residual of around 711,000 persons can be re-calculated.

Subtracting in addition residence permits between 3 and 12 months (more than 342,000), applicants for permits (almost 243,000), and persons who do not require permits (almost 93,000) results in a residual of **only 33,000 persons**. Further subtracting the known number of tolerated persons (around 167,000) and persons required to leave (63,000) **results in a negative residual of around -196,000** (see graph 3). In other words, the residual is reduced to zero when all known groups of regular and known irregular residents are factored in. The specific residual method applied by Pew Research Center does not lead to any result.

Graph 3. Higher bound estimate of irregular migrants (excluding asylum seekers) as by residual method applied by Pew, 31 December 2017, and corrected estimate



Sources: EUROSTAT, 2019a, 2019b, 2019c, DESTATIS 2018, Deutscher Bundestag 2018, Pew Research Center 2019, own calculation

The following sections describe each of these groups in detail.

Error #2: Including Asylum Seekers

The first of Pew's estimates, including asylum seekers, is conceptually wrong. During the asylum procedure, asylum seekers – regardless of how they entered Germany – have a temporary permission to stay (Aufenthaltsgestattung) according to the German Asylum Law (§55 Asylgesetz). **Their residence in Germany is legal.** Seeking asylum and being temporarily protected are basic human rights enshrined in the EU Charter of Fundamental Rights (art. 18 and 19) as well as the EU Asylum Procedures Directive (art. 9). **Asylum seekers with pending applications cannot be counted as irregular migrants.**

Only **after** they have retracted their application or received a **final negative decision** on their case, have **waived or exhausted all options for appeals**, have not received any **humanitarian residence title**, or have no pending application or option for **another type of temporary or permanent permit** (Flüchtlingsrat Niedersachsen, 2020), are unsuccessful asylum seekers ordered to leave (Grote and Vollmer, 2016: 13; Asylgesetz § 67, §34) and might become irregular residents, with or without toleration.

Error #3: Including Persons Who Have Applied for a Permit

From the statistical classification of foreigners by residence status (DESTATIS, 2018), it becomes clear that there is a fourth group of persons in the AZR who are neither permit holders nor irregular residents: **permit applicants**. As long as the application for the issue or renewal of a permit is filed while the residence of the applicant is lawful, a provisional certificate is issued until a decision on a residence permit is made. During this period, applicants are **entitled to stay in Germany** (§81 AufenthG). As of 31 December 2017 there were **242,545 applicants** for residence permits in Germany. The estimates published by Pew also incorrectly classify this group as irregular residents.

Error #4: Including Short-Term Migrants

Considering the second estimate (excluding asylum seekers) of 600,000 to 700,000 irregular immigrants, another error has to be noted. For the higher bound estimate of 700,000, the reference population is non-EU/EFTA foreign citizens in EUROSTAT's population statistics (EUROSTAT, 2019a), which includes persons with all lengths of stay. From this reference population, residence permits of duration of 12 months or longer (EUROSTAT, 2019b) are subtracted. Consequently, **permit holders of titles valid for 3 to 11 months are included** in the residual, the **estimate of irregular migrants**.

Temporary permits of 3 to 11 months (342,440) have to be subtracted from the total number of third-country nationals as well.

Error #5: Including Persons Who do Not Require a Permit

German legislation foresees a waiver of the requirement of a residence permit for **four groups of persons**: family members of EU citizens as well as of citizens of Norway, Iceland or Liechtenstein (§3 FreizügG/EU), diplomats and representatives of international organisations (§1 AufenthG), some stateless persons (§12 Gesetz über die Rechtsstellung heimatloser Ausländer im Bundesgebiet) and foreign military personnel. In 2017, the total of these groups amounted to **92,790 persons** (DESTATIS, 2018).

These third-country nationals are not included in the residence permit statistics because they **do not require any permit**. Pew's residual method incorrectly classifies them as irregular residents.

Caveat #1: Tolerated Persons

There is a known group of persons in Germany who are legally required to leave but whose stay is tolerated, inter alia due to unobtainable passports or for humanitarian, personal or family reasons. From AZR data, the number of tolerated persons amounted to **almost 167,000** in December 2017 (DESTATIS 2018).

From a legal and statistical perspective, **tolerated persons can be counted** as part of the population of irregular residents. They do not have a residence permit, they are required to leave (§50 AufenthG) but they are issued a document stating that the **requirement to leave is suspended** (§60a AufenthG). Their status as temporarily tolerated **should, however, be made explicit** in estimates.

Conclusion

In addition to the known number, there is an **unknown number of persons without the right to stay** (dark figure), but since Dita Vogel's estimate for Germany in 2014 (Vogel, 2015) based on a multiplier method applied to criminal statistics with a range of 180,000 to 520,000 irregular migrants, there has been no further attempt at estimating the real figure.

The residual method applied by the Pew Research Center is not suited to estimate this number, as outlined above, because the structure of the data sources available for Germany does not permit such a calculation. Any estimate of the residual, i.e. the difference between the total population of third-country nationals based on the population statistic or LFS data and the subgroup of legal and known irregular residents based on data from the AZR will **yield a negative redundant result**. A negative estimate is equivalent to a zero estimate and therefore redundant, not informative. This is because the AZR population is structurally larger than the comparative population in the other two data sources – the population statistic and the LFS.

This is not to say that the number of irregular migrants in Germany is zero or equivalent to the known number. It is safe to assume that there are a number of persons staying irregularly, not registered and therefore not captured by existing data sources. But the magnitude of this group remains unknown and should be the subject of future, more appropriate estimates.

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