Third Person Status at the Border: Moroccan Entry into West Germany, 1958-1972

In recent years, some scholars have discussed West Germany’s transformation into a *Rechtsstaat* after the 1972 Munich Massacre.¹ That trajectory did not, however, come from a void. Immediately after the Second World War, the concept of Europe was in flux both geographically and conceptually. Mass devastation across the continent, followed by the beginning of the Cold War and anti-colonial struggles, meant that many state leaders had to redefine their economic and political relationships. From two decades following the Second World War, the concept of a common European Community (EC, later Union) hinged partly on the idea of a shared past and common economic concerns. Slowly, borders between these neighbors opened, promoting European communication and interaction.² On the flip side, however, border controls and securities between European and so-called Third Countries (non-European Community Member States) tightened, limiting and contentiously regulating migration. While approved “European” individuals could move without visas, individuals moving through and from countries like Turkey and Morocco (as well as across the Global South) faced steep fees and long waiting periods, often to meet denial.

The young West German state took a rather curious position within this story in part because of its need to deal with its connections to the Nazi past. Immediately after the war, the Allied High Command controlled the devastated German borders as maps were redrawn in the name of establishing peace and as the early Cold War boundaries appeared. In the decade after the Second World war, with the conquering powers controlling borders and pushing repatriation, the (re)forming state (*Länder*) governments did not have to worry over-much about border controls.³ Without clear laws in place, state governments fell back on issuing visas (residence and work) to new migrants who presented themselves at the appropriate offices after arrival. That was particularly true regarding migrants from former colonial countries, whose states did not yet have old treaties or agreements with older German governments (Empire, Republic, or Reich).⁴

Through the early 1960s, for example, individuals from Morocco (which became an independent state in 1956) frequently arrived in North Rhine-Westphalia (NRW) in a slow trickle from France looking for work. Following the same pattern as the Dutch arriving from the Netherlands, these prospective workers could (and did) present themselves at an appropriate government building in the low thousands. There, the individual (usually male) received residence and/or

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work permits. At that time, a Moroccan citizen was not breaking the law to enter West Germany without a visa as there was no law preventing it.

The regularizing of migration and deportation to Morocco was part of the reason West Germany signed its 1963 Bilateral Labor Agreement (guest worker agreement) with the Kingdom of Morocco. Yet, even as the Moroccan state became an official guest worker country, the West German state governments (which had control over borders and naturalization) took a decidedly different view of migrants from Morocco than migrants from the new European Economic Community Member States. Although the migrant from Morocco was not breaking the law, in entering the state without a visa, said individual did not clearly fall under a specific law. In consequence, the West German states often viewed these individual as only semi-legal. Without a clear legal framework, states like NRW used the excuse to handle these migrants harshly and, by 1966, newspapers across the state reported overly-aggressive behavior from the NRW state department targeting individuals from countries like Morocco on account of their status as “black workers” from a “black continent.”

Within five years, the behavior that many members of the local presses decried normalized. In response to the Munich Massacre in 1972, the West German Foreign Office and Ministry of the Interior enacted “protective measures against similar attacks in the future” from “Arab states.” The new measures required potential tourists and/or migrants with Moroccan citizenship (as well as citizens from specific other so-called Arab, African, and South American states) to undergo invasive screening. These new, restrictive measures included immediate deportation for all irregular migrants from any Arab state or against whom stood any reason for expulsion.

The crackdown was so intense that the Moroccan Ambassador formally expressed concern. The Moroccan Embassy in Bonn had received multiple complaints about mass deportations. Contravening the 1963 West German-Moroccan Bilateral Labor Agreement, the North Rhine-Westphalian government demanded Moroccan citizens working in the country without valid papers pay a 400-500 Deutsch Mark fine before deportation. In addition, the Moroccan Legates reported that West German officials not only refused Moroccan citizens entry, but treated Moroccan citizens “with severe intimidation and even humiliation.” The Moroccan Ambassador asked the West German Ministry of the Interior to at least implement regulations requiring the

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5 Meincke, “Erteilung von Aufenthaltserlaubnis gemäß deutsch-marokkanischer Anwerbevereinbarung” (Bonn: Auswärtiges Amt, February 2, 1967), 2, B 85, Bd. 880, PA AA.
8 Auswärtige Amt and Dreher to alle diplomatischen und berufskonsularischen Auslandsvertragen, “Behandlung von Sichtermerkanträgen von Staatsangehörigen der arabischen Staaten,” October 20, 1972, B 85, Bd. 1051, PA AA. See also Slobodian, “The Borders of the Rechtsstaat in the Arab Autumn.”
humane treatment of Moroccan citizens at the border, as the West German Diplomat Paul Frank had promised earlier that year.\textsuperscript{9}

This is only a brief overview of West German legal relationship with one specific state. These stories about differentiation and frequent discrimination in relation to border crossing (including e/immigration and deportation) are not confined to specifically West German-Moroccan relations. Migrants from across the Global South face challenges entering countries across the European Union from Germany (now (re)unified) to Denmark and Spain. I argue that in our (scholars) ongoing discussions about legality and immigration status, we need to take treatment at and around the idea of borders into account. Many scholars study (il)legality, but we also need to consider the lengths to which a state goes to promote that status in order to have greater control over arguably unwanted individuals. Part of the point here is that not only does the imposition of an “illegal” status on some migrants influence a migrant’s choices, but it also impacts their engagement with and understanding of that space and the people in it. The clear third person status at the border informs the migrant of an unwelcome that frequently persists through their residence in the country. If stability and peace continue to be part of the goal of a united “Europe,” how does differentiated treatment fit into that?