Germany Restricted the Freedom of Movement for Polish Citizens – But Does It Matter?

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Well into the 1990s Germany ignored the economic necessity of opening itself for immigration, as well as the certainty that it had, in fact, already become an immigration country.[2] From the mid-1990s, experts started warning emphatically that the country should make efforts to attract young and highly qualified migrants, as these were urgently needed to stabilize the welfare systems and ensure a sufficient pool of qualified workers.[3] However, these calls were long unheeded. Politicians highly contested even the suggestion that Germany could officially be called an "immigration country", and proposals to start actively recruiting highly skilled immigrants were countered with political campaigns calling for "Kinder statt Inder" ("Children instead of Indians").[4]

This discussion was still very much ongoing when in March 1998 the negotiations for the accession of Poland as a new EU-member started. A question that immediately arose was whether Polish workers should be granted full freedom of movement, including free access to the labour markets of existing EU Member States. Germany insisted on only accepting Poland as a new Member State, if it were allowed to restrict this freedom.[5]

Nevertheless, at the same time as the accession process was progressing, experts and the media observed with alarm that Germany was starting to run out of doctors. While the British government, facing the same problem, gladly accepted the opportunity of new medical staff arriving from the new EU Member States, Germany resisted accepting its need for economic immigration. Finally, Germany settled on a compromise. It restricted the freedom of movement for workers, but not for self-employed persons.[6]

This article will describe the legal possibilities open to Polish doctors to migrate to Germany before and after Accession; but it will also examine which facts most influenced the decision of Polish doctors to migrate to Germany. It will illustrate how migration laws are not actually the most influential factor determining the inflow of Polish doctors to Germany. More important, instead, seems to be the nature of German demand for doctors and the incentives from the viewpoint of the migrants.

Facing a lack of qualified doctors

The first time it was established publicly that Germany faced a shortage of qualified doctors was in 2002.[7] The cause was two-fold and still applies today. The number of students of Human Medicine shrank by 13 per cent between 1993 and 2003, from 90,594 to 78,478. Moreover, about 25 per cent of graduates decide not to work as doctors at all, preferring to earn their money in the pharmaceutical sector or in management consultancies. As a result, medical staff is getting older and older. The average age of SHI-authorized physicians, for example, rose from 47.5 to 50.8 years old between 1993 and 2004, and the average age of hospital-based physicians from 38.1 to 40.7. The results will be stark: within the next ten years, about 44 per cent of all practicing family doctors are expected to retire.[8] Already, nearly 30 per cent of all German hospitals have vacant positions.[9] In 2004, the German Department of Health concluded there currently exists a regional undersupply of physicians working in medical practises as well as in the hospitals (i.e. a shortage of both self-employed doctors and hospital employees), which will get worse in the future, if no counteractive measures are taken.[10]

Many studies have concluded that immigration constitutes a possible (or even necessary) solution to counteract shortages in certain professions.[11] The medical profession is one of those for which this has been established to be the case.[12] The extent of the shortage of doctors in Germany suggests that the demand for foreign doctors would be high. The accession of neighbouring Poland to the EU raised the prospect of a ready and nearby supply of such qualified foreign doctors that could be tapped. However, what about the considerations that such Polish doctors face when contemplating migrating to Germany? What are the incentives, motivations and obstacles involved?

What drives migration?

One of the ways of approaching the decision to migrate or not is to view it purely as a calculation of the benefits and costs that are involved in the process of migration. Prime elements in this equation would be existing wage differentials between the countries of origin and destination and the unemployment rates in the country of origin.

In the case of Poland and Germany, the wage differentials involved are huge. A Polish physician who emigrates at a young age can earn almost three times as much in a lifetime in Germany as he would in his home country.[13] The unemployment rate for doctors in Poland, on the other hand, is effectively zero[14] and can thus not be considered a push factor. The difference in working conditions, however, does represent another push factor encouraging emigration from Poland.[15]

Nevertheless, the world is dominated by huge wage differentials and different working conditions: yet only 2 per cent of the world's population live outside their native country.[16] Even within Europe most people are immobile: only 1.5 per cent of the inhabitants of the EU make use of the internal freedom of movement.[17] Apparently, such directly income-related push and pull factors are insufficient to explain the dynamics of migration.

One has to therefore rethink the focus on wage differentials, and mention not only the benefits of migration, but also the costs arising from it. Four different categories of direct and relative costs can be distinguished:

a) Monetary costs involved in the migration process itself, in terms of transport costs but also costs involved in finding out about relevant job vacancies, finding new dwellings and other such practicalities.

b) The loss of cultural and regional knowledge.

c) Not being able to receive the same wages as equally qualified citizens of the host country because of certificates and educational achievements which are not (or not fully) recognized.

d) The possible inability, or lack of legal path, for the spouse to work in his or her own profession or work at all, and the prospect that the education system in the new country may be more difficult for the children to follow.[18]

Tables 1 and 2 show the results of a survey I conducted in 2005 with 20 Polish doctors already working in Germany, in which I asked them about their motivation for migrating and the greatest obstacles they had faced when migrating.[19]

Two incentives to migrate mentioned earlier are confirmed in these survey results: both the higher wages and the better working conditions in Germany played a significant role for most of the doctors I interviewed. However, the results suggest two further findings. Unemployment levels in Poland played only a modest part; but the lack of training opportunities in Poland turns out to be a dominant motivation for migrating to Germany for about half of the respondents. The Polish Medical Association estimates that not even half of Polish graduates have the possibility to qualify as a medical specialist in Poland.[20]

Table 1: Survey results: Motivations for migrating

	NUMBER ANSWERING	RESULT
For which reasons did you emigrate to Germany? (Please mark the appropriate number between 1 – 10)		
Reason: Advanced training / qualification possibilities in Germany	9 (persons)	8,8 (Ø)
Reason: Wage differentials	19	7,4 (Ø)
Reason: Gaining experience in a foreign country	19	6,4 (Ø)
Reason: Better working conditions	19	5,7 (Ø)
Reason: No job in Poland	6	1,7 (Ø)

Table 2: Survey results: Obstacles arising from migration

	ANSWERS	RESULT
Did you experience problems in Germany with the recognition of your certificates and educational achievements?	20	Yes: 11 No: 9
If you have left your spouse or your children back in Poland, how far did this fact hinder you from migrating? (Please mark the appropriate number between 1 – 10)	6	5,3 (Ø)

Meanwhile, an important factor discouraging migration is the problem that Polish immigrants face in having their certificates recognised in Germany. If their qualifications are not (or not fully) recognized, this may result in a lower level of income, as is described below.

Another possible element I tested in the survey, whether leaving family back in Poland was an element discouraging emigration, turned out to play a role, but a much lesser one.

The legal framework before and after the enlargement

Ever since the recruitment ban ('Anwerbestopp') was imposed in 1973, the possibilities for Polish doctors to migrate as *employees* to Germany have been small. Several restrictions limited the opportunities to obtain a work permit ('Arbeitserlaubnis'). Employers had to show that no sufficiently qualified employee could be recruited for the vacant position in Germany or other EU Member States, and that no negative consequences could be expected from hiring a foreign worker.[21] As Germany restricted the freedom of movement of citizens from the new EU Member States that acceded in 2004, little has changed since then. One relevant thing that did change is that since Poles are now EU citizens, they are favoured above third-country nationals when seeking access to the German labour market.

To work in Germany as a foreign *self-employed* doctor was similarly difficult before 2004. The Foreign Citizen's Office had the authority to grant Polish doctors a work permit, but this was its discretionary decision and was handled rather restrictively. For these self-employed Poles,

the situation changed greatly upon Poland's accession. Germany did not restrict the freedom of movement for self-employed persons. They are free to work wherever they want.

Before the enlargement round of 2004, the right to work for an immigrant's spouse had to be acquired separately by the spouse. Poland's accession to the EU brought little change on this count for immigrants working as employees – but big changes for the self-employed.[22] The spouse of a self-employed person who has the right to move freely within the EU is allowed to work as well, even if he or she is a third-country national.[23] This change should have a major effect on the decision whether or not to migrate for couples who would not migrate if this meant living separately.

Two other major obstacles were removed upon Poland's accession to the EU. Since 2004, Polish doctors can, for the first time, acquire a German medical license ('Approbation', § 3 Abs. 1 Nr. 1 Bundesärzteordnung). A problem Polish doctors had faced before was that without this license, for example, it was only possible to work as an employee in Germany on the basis of a specific authorisation ('Erlaubnis'), which normally was valid only for a limited period of up to four years, with a possible extension to seven years, and was restricted to a specific position. This significantly narrowed the possibilities for doctors moving to Germany to plan ahead for the long term.

Moreover, the recognition of diplomas and specialist certificates ('Facharzttitel') has been harmonized on an EU-wide level. As a result, it is now much easier for Polish qualifications to be recognised as equal to the German ones.[24] Previously, Polish doctors whose specialist certificates were not recognized as equal suffered a loss in income. Self-employed doctors were only allowed to treat private patients and not (the more relevant group of) state health-insurance patients. Doctors working as employees may have been required to prove their knowledge in a probationary period, during which they would be paid lower wages.[25]

Does migration policy matter?

To sum up the findings illustrated above: for a few years now, there has been a demand in Germany for foreign doctors, because of a shortage of indigenous ones. Incentives, such as wage differentials and working conditions, for Polish doctors to migrate to Germany, have been, and are, strong. A specific incentive for migration has been the lack of advanced training opportunities in Poland.

There already existed limited legal possibilities to enter and work in Germany as a Polish doctor either as an employee or as self-employed before 2004. The EU enlargement of 2004 changed few things for Polish doctors seeking to work as employees. The main thing which did change for them was that the recognition of educational certificates became much easier. For Poles who want to work as self-employed doctors in Germany, on the other hand, huge changes took place. Not only did they benefit from the easier recognition of educational certificates, they now are no longer dependent on a work permit and can take their families with them. Therefore, compared to the situation before 2004, the incentives to migrate to Germany in order to work as a self-employed doctor should have increased much more strongly than the incentives to work as an employee. However is this assumption borne out by the data?

If the volume of emigration of Polish doctors to Germany were not only a question of the existing demand for foreign doctors or the existing wage differentials, but also a question of the incentives and obstacles posed by migration policies, one would expect a huge variation between the immigration of Polish doctors as employees and the immigration of self-employed doctors after 2004. After all, the legal changes differ fundamentally between these two groups. To examine this assumption, Tables 3 – 5 below list the number of Polish doctors working in Germany as employees and as self-employed doctors from 2000 to 2006. To contextualise the numbers, they are compared with the numbers of doctors from the 14 "old" EU-member-states in the same categories.

Table 3: Foreign doctors working as employees in Germany 2000 – 2006[26]

	2000	2001	2002	2003	2004	2005	2006
Employees EU-14	1.908	2.041	2.233	2.446	2.680	2.827	3.110
Percentage increase	-	6,97%	9,41%	9,54%	9,57%	5,49%	10,01%
Employees Poland	334	361	415	597	743	795	863
Percentage increase	-	8,08%	14,96%	43,86%	24,46%	7,00%	8,55%

Table 4: Foreign self-employed doctors working in Germany 2000 – 2006

	2000	2001	2002	2003	2004	2005	2006
Self-employed EU-14	1.160	1.183	1.195	1.199	1.204	1.232	1.261
Percentage increase	-	1,98%	1,01%	0,33%	0,42%	2,33%	2,35%
Self-employed Poland	148	156	159	160	169	188	206
Percentage increase	-	5,41%	1,92%	0,63%	5,63%	11,24%	9,57%

Table 5: Total of foreign doctors working in Germany 2000 – 2006

	2000	2001	2002	2003	2004	2005	2006
Total EU-14	3.068	3.224	3.428	3.645	3.884	4.059	4.371
Percentage increase	-	5,08%	6,33%	6,33%	6,56%	4,51%	7,69%
Total Poland	482	517	574	757	912	983	1.069
Percentage increase	-	7,26%	11,03%	31,88%	20,48%	7,79%	8,75%

While the number of foreign doctors coming from the EU-14 increases constantly, there is obviously a peak inflow of Polish doctors in 2003 and 2004. Interestingly, the peak is *before* the accession of the new Member States, and therefore took place when the demand had, for the first time, been diagnosed as high, but the immigration policy was still at its strictest. In 2002/03, approximately as many doctors immigrated to Germany from Poland as from all the EU-14 countries put together, while the percentage by which their number increased was more than four times higher.

The 43 per cent increase in Polish employees in 2003 seems to prove that the great demand for foreign doctors had an effect far outweighing that of the restrictive German immigration policy. The vacancies had to be filled, and the Polish doctors were willing to come because of sufficiently big migration incentives like wage differentials and better working conditions. Neither the restrictive German immigration policies, nor the fact that Poland was not at the time part of the EU, prevented this migration flow of Polish doctors to Germany.

Curiously, the increase in the number of Polish doctors in Germany slowed down *after* the Accession. There might be two possible explanations. The first is that Germany started implementing various measures to meet the shortage of doctors, which may have lessened the need for immigrants. For example, ethnic German immigrants with a foreign diploma are now re-trained to be able to work as doctors in Germany and 'mobile nurses' are involved more strongly in the healthcare system in undersupplied rural areas in the east of the country.[27] A second possible explanation is that countries like Great Britain did *not* limit the freedom of movement for doctors working as employees in the way Germany did. Moreover, besides its more immigration-friendly policy, Britain also offers the prospect of higher wages.[28] Many Polish doctors willing to emigrate might, therefore, have chosen Great Britain as country of destination instead.

Concerning the question whether the different changes in the legal basis for employees and self-employed doctors matter, there is no clear-cut answer. Since 2004, the percentage increases for self-employed doctors have been much higher than they were before. They have not, however, been much higher than the figures for the employees, and in absolute terms many more doctors are still coming to work as employees than to establish themselves as self-employed doctors. A relevant factor in this discussion is the financial burden that is involved in opening up a surgery of one's own in Germany, which can be considered quite expensive, especially when regarded in the context of Polish wages. Starting one's own practice costs 157,384 Euro on average, the acquisition of an existing practice costs 214,983 Euro and joining a group practice costs 218,780 Euro.[29] In short, the change in the legal basis might well constitute a big incentive to migrate as self-employed doctor in theory, but in practice, this draw is largely countervailed by the necessary investments involved in opening up a surgery.

Conclusion

The influence of amendments in migration law can be marginalized or negated by other incentives and disincentives for migration. If a great demand for foreign doctors and great incentives for immigrants exist, individuals will find ways to fill the vacant positions, even if the migration law throws up big obstacles. On the other hand: if the incentives are low, for example, because of high investments the immigrant doctor would need to make, the inflow of immigrants will be limited even if the migration law provides ample opportunities.

For countries like Germany trying to attract more high-qualified migrants, it is therefore not sufficient to open the country's borders to such high-skilled immigrants and wait. Even stark wage differentials and differences in working conditions, which won't be as stark in every profession as they are for doctors moving from Poland to Germany, might be negated by other impediments. To be an attractive country of destination for highly skilled migrants, politicians therefore need to look beyond questions of income alone. Further incentives that might have to be taken into account might involve measures that facilitate the cultural and educational transitions arising from migration (like providing integration courses or mentoring programmes for newcomers), clearing bureaucratic obstacles and procedures, and making information about vacant positions more easily and widely available to foreign workers.

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[2] See e.g. Barbara Marshall, *The new Germany and migration in Europe*, Manchester, Europe in change, 2000, p. 13, 155.

[3] For an early example of the scientific discussion, see Klaus J. Bade (ed.), *Das Manifest der 60. Deutschland und die Einwanderung*, München, C.H. Beck, 1994.

Later commissions established by the government also observed the demand for immigration. See: Bundesministerium des Innern, *Zuwanderung gestalten, Integration fördern. Bericht der Unabhängigen Kommission Zuwanderung im Auftrag des Bundesministeriums des Innern*, Berlin, 2001; Sachverständigenrat für Zuwanderung und Integration, *Migration und Integration – Erfahrungen nutzen, Neues wagen. Jahresgutachten 2004*, Nürnberg 2004.

[4] For the discussion see e.g.: "Deutschland: Schily beruft Kommission zum Thema Einwanderung", in *Migration und Bevölkerung Newsletter*, 5/2000.

[5] Volker Ullrich and Felix Rudloff (eds.), *Der Fischer Weltalmanach aktuell, Die EU-Erweiterung*, Fischer, Frankfurt/Main 2004.

Regarding the British government's welcoming approach to medical professionals from the new Member States, see: Department of Health, *Poles fill holes* (press release), 24 February 2005, http://www.dh.gov.uk/PublicationsAndStatistics/PressReleases/PressReleasesNotices/fs/en?CONTENT_ID=4104358&chk=iXfIx0.

For the German government's position on extending the restriction of freedom of movement for workers from the new Member States until 2009, see: Federal Government, *Regierungskonferenz am 22. März 2006*, http://www.bundesregierung.de/nn_1516/Content/DE/Mitschrift/Pressekonferenzen/2006/03/2006-03-22-regierungspressekonferenz-vom-22-maerz.html.

[7] See: Bundesärztekammer, *Ergebnisse der Ärztestatistik zum 31. Dezember 2001, Gehen dem deutschen Gesundheitswesen die Ärzte aus?*, 2001, http://www.baek.de/page.asp?his=0.3.1667.1697.

[8] Thomas Kopetsch, *Dem deutschen Gesundheitswesen gehen die Ärzte aus! Studie zur Altersstruktur- und Arztzahlentwicklung,* Köln, Bundesärztekammer und Kassenärztliche Bundesvereinigung, 2005.

[9] Karl Blum et al., *Krankenhaus Barometer. Umfrage 2006*, Düsseldorf, Deutsches Krankenhausinstitut, 2006.

[10] Bundesministerium für Gesundheit und Soziale Sicherung, *Gutachten zum "Ausstieg aus der kurativen ärztlichen Berufstätigkeit in Deutschland, Abschlussbericht"*, Hamburg, 2004.

[11] See note 2; further e.g. Markus Frölich and Patrick A. Puhani, *Immigration and Heterogeneous Labor in Western Germany, A Labor Market Qualification Based on Nonparametric Estimation*, ZEW Discussion Paper No. 02-01, Mannheim, Zentrum für Europäische Wirtschaftsforschung, 2002.

[12] See: Holger Schäfer, *Möglichkeiten der qualitativen und quantitativen Ermittlung von Zuwanderungsbedarf in Teilarbeitsmärkten in Deutschland – Grundlagen einer Indikatorik für eine arbeitsmarktbezogene Zuwanderung*, Institut der deutschen Wirtschaft, Köln, 2004, pp. 36 – 48.

Further: Klaus F. Zimmermann et al., *Fachkräftebedarf bei hoher Arbeitslosigkeit. Gutachten im Auftrag der Unabhängigen Kommission Zuwanderung*, Bonn, 2001, pp. 80 – 88.

[13] See for the theory of wage differentials: John R. Hicks, *The theory of wages*, New York, Macmillan, 1932.

If physicians emigrate at the age of 27 years and retire at 65 they can earn up to 1,166,140 PPS (units of purchasing power parities) more than by working in Poland. In the same time in which they would have earned 629,218 PPS in Poland, they can earn up to 1,795,358 PPS in Germany. (Figures based on own calculation. It is stated that physicians have an intertemporal interest rate of 0.02, which means a preference for present over future earnings. Each yearly wage is thus divided through "1 + interest rate^{t}", where t is the difference between the future and the actual year, e.g. 2015 – 2008 = 7. Data from: Eurostat, *Themen: Bevölkerung und soziale Bedingungen*, 2005, http://epp.eurostat.cec.eu.int/portal/page?_pageid=0,1136184,0_45572595&_dad=portal&_schema=PORTAL, retrieved on 1.4.2005).

[14] On the contrary: In 2005 many Polish doctors were working parallel on two different positions, *Personal request to Naczelnej Izby Lekarskiej* (Polish medical association), 24.6.2005.

[15] Heinz Fassmann, "EU-Erweiterung und Arbeitsmigration nach Deutschland und Österreich. Quantitative Vorhersagen und aktuelle Entwicklungstendenzen", in *Imis-Beiträge* No. 19, Osnabrück, Institute for Migration Research and Intercultural Studies (IMIS), 2002, pp. 65 – 88.

[16] Thomas Straubhaar, *Internationale Migration, Gehen oder Bleiben: Wieso gehen wenige und bleiben die meisten?*, HWWA Discussion Paper No. 111, Hamburg, HWWA, 2000.

[17] Melanie Kiel and Heinz Werner, *Die Arbeitsmarktsituation von EU-Bürgern und Angehörigen von Drittstaaten in der EU*, IAB Werkstattbericht No. 7, Nürnberg, Institut für Arbeitsmarkt- und Berufsforschung, 1998.

[18] Based on Thomas Straubhaar, see note 15, pp. 16 – 19.

[19] I conducted this non-representative survey in the summer of 2005. The participants were identified through the networks of individual doctors and through contacting hospitals in order to question Polish doctors working there.

[20] "Doktoren auf gepackten Koffern?", *Gazeta Wyborcza* (translation by the Deutsch-Polnische Wirtschaftsförderungsgesellschaft AG), 26 February 2004, http://213.77.105.135/wInfopolen/5_database/4_Archiv/Thema-Woche/04/10_KW_TedeWo.asp?navid=430.

[21] For the legal basis before 2004 see: Michael Kittner and Susanne Kittner, *Arbeits- und Sozialordnung, Ausgewählte und eingeleitete Gesetzestexte*, Frankfurt/Main, Bund-Verlag, 2002.

[22] Katja Peters, "Arbeitsberechtigung nachziehender Familienangehöriger von Wanderarbeitnehmern aus mittel- und osteuropäischen Staaten", in *Zeitschrift für Ausländerrecht und Ausländerpolitik*, Vol. 25, No. 3/4, 2005, pp. 87 – 93.

[23] Klaus Dienelt, "Freizügigkeit für Familienangehörige nach der EU-Osterweiterung", in *Zeitschrift für Ausländerrecht und Ausländerpolitik*, Vol. 24, No. 11/12, 2004, pp. 393 – 397.

[24] See: Council of the European Communities, *Directive 93/16/EEC to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications*, 5 April 1993.

This Directive was replaced in October 2007 by: Council of the European Communities and European Parliament, *Directive 2005/36/EC on the recognition of professional qualifications*, 7 September 2005. This Directive repealed Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC, 89/48/EEC, 92/51/EEC, 93/16/EEC and 1999/42/EC.

The educational qualifications of those whose education started after the date of EU Accession will be recognised as equal. Regarding those whose education started before, the relevant authorities might ask the doctor for further specifications, such as the confirmation of working experience. See: European Commission, *Mutual Recognition of Diplomas of the new Member States in the Context of sectoral Directives*, 9 January 2007, http://ec.europa.eu/internal_market/qualifications/docs/specific-sectors/overview_en.pdf.

[25] Compare Auslandsdienst Bundesärztekammer, *Arbeiten in Deutschland, Informationen für ausländische Ärzte zum Arbeiten in Deutschland, WHO, EU*, 2005, http://www.baek.de/page.asp?his=1.109.111.

For a lower wage level resulting from unrecognised qualifications see: Adriana D. Kruger and Robert M. Sauer, *Doctors without borders: The Returns to an Occupational License for Soviet Immigrant Physicians in Israel*, Discussion Paper No. 634, Bonn, Institute for the Study of Labor, 2002.

[26] Tables 3 – 5 are my own calculations on the basis of figures taken from: Bundesärztekammer, *Die ärztliche Versorgung in der Bundesrepublik Deutschland*, 2007, http://www.baek.de/page.asp?his=0.3. Only doctors working as doctors have been counted (i.e. not the ones who work in the pharmaceutical branch).

[27] "Einwanderer sollen medizinische Versorgung verbessern", *Spiegel Online*, 10 March 2008, http://www.spiegel.de/wirtschaft/0,1518,540539,00.html; Hendrik Kranert, "Gemeindeschwestern: Land setzt auf Arzthelferinnen für ländliche Regionen", *Mitteldeutsche Zeitung*, 12 December 2007.

[28] See Björn Finke, "Das Zitat", *Süddeutsche Zeitung*, 3 August 2005, p. 20.

[29] Deutsche Apotheker- und Ärztebank/Zentralinstitut für die kassenärztliche Versorgung, *Das Investitionsverhalten von Ärzten bei der Praxisgründung 2002/03*. Düsseldorf/Köln, 2004.