



Security Policy Working Paper No. 10/2016

Refuge and migration

Organisational, administrative and logistic challenges

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Migratory pressure on Germany and Europe increased in the summer of 2015 and posed the continent challenges of a hitherto unknown nature and scale. The at times completely uncontrolled influx of refugees and migrants raised legal and administrative problems in addition to the humanitarian issues and clearly revealed the limits of federalism in Germany. The Federal Republic responded to the challenges by creating ad hoc structures and relying on nongovernmental organisations and volunteers. Generosity was shown in the application of existing laws on the one hand, while persistence was shown in the handling of existing regulations and responsibilities on the other.

The chaos in the first weeks

On some days in October 2015, telephone conferences held by the Federal Ministry of the Interior with the representatives of the chancelleries of the federal states were used to conduct negotiations on, or rather to "auction off", individual bus loads (a standard load being 50 refugees) to make sure that the migrants arriving in Bavaria that day were redistributed. Owing to the pressure exerted by the Bavarian chancellery, many weeks were spent solely on preventing the seemingly endless stream of refugees entering Germany, via the border with Austria, from congesting in Bavaria. All the humanitarian, organisational and logistic efforts made centred around ensuring the effective onward movement of the migrants coming in each day. To achieve this, use was made of extra Deutsche Bahn (German Rail) trains and private company buses supplemented by vehicles from the fleets of government institutions such as the Bundeswehr. A limiting factor was the condition imposed by the Federal Ministry of Transport to avoid cancellations of trains and direct consequences for Deutsche Bahn customers that there should be no interference with the regular rail traffic. In the charged atmosphere of the late autumn, the aim was presumably to avoid, under any circumstances, commuters on the platforms being confronted with the announcement that their trains home were to be cancelled because they would be transporting refugees.

To put it mildly, the situation at the border crossings was confusing. Refugees arrived both at the official border crossings with Austria and at the so-called green border in trains, private vehicles, on foot or in buses. Some of them carried photocopies given to them by friendly Austrians to show them the way to the nearest "unmonitored" border crossing to Germany. The Bavarian police and federal police, in part without clearly defined fields of powers, did their best to prepare the refugees for their onward movement to other federal states as soon as possible. In this situation, no thought could be given to systematically fingerprinting and photographing the refugees and verifying their eligibility to enter the country; the sole

concern was to prevent the flow of refugees from coming to a halt in Bavaria. One phrase going around in Berlin was to remain true for several long weeks: “Sovereign control lies with the trek.”

Organisers respond to the challenges

A structure for the reception of refugees and migrants close to the border began to be established when, after four weeks of discussion, agreement was reached with Austria on five transfer points at which contingents of migrants were to be transferred from the Austrian to the German authorities. In parallel, and in close cooperation with the Ministry of Transport and Digital Infrastructure, something alike to a weekly bus and train schedule was developed to enable the migrants to be quickly moved on to central pickup points in other federal states at fixed times. Agencies and volunteer helpers were then able to prepare for the arrival of the next group of refugees in their area of responsibility, even though that did not always take place during regular traffic and working hours, creating additional stress for everyone concerned.

On 9 October 2015, the Ministry of the Interior, acting on behalf of the Federal Government, concluded an agreement with the federal states on the provision of a total of 40,000 beds at waiting centres and initial reception centres. The Federal Government pledged support for the running of the federal state initial reception centres and the Federal Government waiting centres and promised that additional “non-fixed” accommodation for temporarily putting up refugees and asylum seekers would be identified and, if need be, procured.

The waiting centres at Feldkirchen and Erding, which were originally meant to be “waiting rooms for migrants until they were transferred from Bavaria to the receiving federal states”, grew to reach a target capacity of 5,000 beds by March 2016. They were meant to assume an additional recording and registration function by the end of December 2015. In total, accommodation for about 150,000 people was initially created on Federal Government property. The federal states received support in the form of personnel from federal agencies. The workforce of the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF) in particular was enlarged by Bundeswehr and customs personnel to absorb peaks in the registration of asylum applications.

However, the entire reception procedure was not consolidated until the end of February / beginning of March 2016, when national measures of individual EU member states took effect – among them the closure of the borders along the West Balkan route – which resulted in a significant drop in the numbers of migrants making it to Germany.

A nice side effect of these special challenges in autumn, albeit short-lived, was the evolution of a “welcoming culture” (Willkommenskultur), although the term itself and its meaning are controversial. Everyone wanted to help, and the old saying that the road to hell is paved with good intentions would have had to be invented had it not already existed. Everyone meant well, but was quickly disappointed if, after all, toys were not distributed among crying children or lunch boxes not among hungry adults because they had decided to pull the emergency brakes of the trains they were on and get off at places that seemed better to them than those they were assigned to by the traffic control centre in coordination with the federal states. Such incidents frequently resulted in delays of several hours, and a large number of those who had looked forward to helping had long gone home by the time the trains arrived at the stations. It must be remembered that many nongovernmental organisations depend almost exclusively on voluntary helpers. Volunteers who had asked their employers for a few hours leave to work as helpers in the refugee crisis quickly ended their involvement when the immediate (positive) feedback from being a helper did not materialise. Nevertheless, the involvement of volunteers was indispensable, especially in the first weeks, because they closed gaps in a concept that had quite a few of them.

Institutional responses to the requirements of identification and registration

Besides the challenges in the areas of transport, traffic and accommodation, security aspects had to be taken into account. Although the agencies concerned, particularly the BAMF and the federal police / state police services made an effort to make the refugees' and migrants' arrival in Germany an initial contact with the oft-mentioned welcoming culture, it was nevertheless necessary to determine the identities of the people coming into the country in addition to their origin. The problem is that identity is an individual characteristic, and on days when up to 15,000 migrants came to Germany from Austria, no thought at all could be given to determining individual identities. Added to that was the fact that the “swarm intelligence” that is continually updated via social networks spread the information early on that it was advantageous for the refugees and migrants to state that they no longer had any documents when they entered Germany. If they were indeed identified and recorded at all, the majority of people entering the country said who they were themselves, that is, they stated their name, date of birth, nationality and often only their ethnic origin, without producing any form of documentation.

This put special pressure on the authorities to swiftly take measures that enabled the refugees and migrants to be identified and registered as fully and as close to the border as possible. In fact, the tasks of the federal police include monitoring the borders, verifying border-crossing documents and people's eligibility to enter the Federal Republic as well as conducting searches of the border regions up to a depth of 30 kilometres into Germany. However, they were at no point in time able to fingerprint and photograph more than 600 migrants or so a day. They therefore urgently needed a “back-up organisation”. Bundeswehr infrastructure in Erding and Feldkirchen was repurposed to create accommodation capacities. Military personnel seconded to the BAMF were employed there to compile so-called “pre-files” for asylum procedures. These pre-files, which are not necessary for the asylum procedure itself, allowed them to both record personal data and take fingerprints. After being entered into the data collection system of the BAMF, the fingerprints were forwarded to the Federal Criminal Police Office, where they were then, in theory, available for further identity checks. This has ensured that all the migrants can be identified and registered since the turn of the year. Nevertheless, there remains the risk of the biographic data, most of which is based on self-stated information, being linked with fingerprints and at the end of the day only creating an “artificial” identity.

The restructuring of the BAMF and the ramifications for future organisation

When it comes to identifying and registering refugees and migrants, deciding upon asylum applications and assigning the people concerned to particular regions, the BAMF is a bottleneck. After the agency was taken over in September 2015 by Frank-Jürgen Weise, the head of the Federal Employment Agency, restructuring measures were swiftly initiated and, above all, additional personnel were hired. The aim of this was, on the one hand, to work through the pile of existing asylum applications and, on the other, to quickly process the new ones expected to come in. To this end, pending asylum procedures are divided into three main groups to ensure more efficient processing. Applications of asylum seekers from crisis zones (such as Syria) and asylum seekers from safe countries of origin (such as those in the Western Balkans) and, since February 2016, also from Algeria, Tunisia, and Morocco, undergo accelerated procedures at the decision-making centres so that they can be concluded quickly. The more complex cases that require more work to process are handled at the branch offices. In addition, an enhanced quality assurance system has been implemented for the overall procedure. A team of legal experts runs random checks on the decisions and also acts as a point of contact for all questions of law.

It comes as little surprise that this procedure, which is designed for rapid completion, takes account of the lessons learned in the last months of 2015, in which up to 15,000 migrants arrived in Germany every day and their sheer number threatened to exhaust the capacities of the federal states and municipalities. The great advantage is that it offers the flexibility required to process the asylum procedures of the potential applicants for asylum who are already in the country within a reasonable length of time. Yet, in view of the

developments in the past few weeks, especially the decisions made at the meeting of the members of the European Council with their Turkish counterpart in March, it is doubtful whether this procedure is suitable for also meeting future requirements. It is doubtful not least because the people covered by the EU-Turkey Agreement will have a different legal status to most of the migrants who have arrived so far. They are referred to as quota refugees and as such do not undergo asylum procedures or any other recognition procedure, but immediately receive a residence permit for humanitarian reasons upon their arrival.

Return, resettlement and relocation: an ambivalent look at the EU-Turkey Agreement

Return, resettlement and relocation are the three terms that in the context of the results of the agreements reached between the EU and Turkey on 18 March 2016 are meant to describe Germany's strategy regarding migration from the Middle East to Europe. They are synonyms for the measures agreed upon to limit the number of migrants, reduce people-smuggling activities, contain illegal immigration and restore Europe's external borders.

Return refers to the controlled return of migrants who have entered Greece illegally via Turkey. The people concerned are to undergo a “high-speed” asylum procedure, which includes the right of appeal, and if no grounds for asylum are found, they are to be returned to Turkey within a short time. The entire process is essentially based on Greece assessing Turkey to be a safe country of origin, as this then makes returning the migrants legal. The question of how Turkey is to be assessed with an eye to, for example, the Kurds living in Turkey remains unanswered for the time being.

A number of asylum seekers who are already in Turkey and have not yet made an attempt to enter Europe illegally equal to the number of Syrian refugees among those returned are to be picked up in Turkey by EU member states for *resettlement* (with quota refugee status). Turkey's idea was that it would take no more than a week to implement measures between return and resettlement.

The current procedure is designed for a maximum of 72,000 migrants to be admitted from Turkey in the context of *resettlement* – it takes quite some effort not to use the word “upper limit” when wording this sentence. The procedure then ends, with no follow-up options yet having been negotiated. The ambivalences and imponderabilities of the entire procedure become clear when one considers that Syrians have to first enter Greece illegally, then have their asylum applications rejected there and finally be shipped back to Turkey before other Syrians who are already in Turkey are selected by the UNHCR and picked up by EU Member States.

The question that must be asked is why illegal migration to Europe on hazardous routes such as the route across the Mediterranean Sea is first necessary to then/thereby trigger *resettlement* in Turkey. Would it not be more sensible for Turkey to directly prevent people from crossing the Mediterranean Sea and Europe directly admitting refugees from Turkey in return? That way, refugees would not have to risk their lives to get into the EU and the influx of migrants could be rendered legal and limited. And there is indeed a passage in the agreement that envisions that “Once irregular crossings between Turkey and the EU are ending or have been substantially reduced, a Voluntary Humanitarian Admission Scheme will be activated, to which EU Member States will contribute voluntarily [...]” Those migrants would then also receive “quota refugee” status in Germany.

It is obvious that the real incentive for Turkey to contain illegal immigration to Europe from its territory is this: While the resettlement procedure would initially force Turkish border security authorities to look away when crossings from Turkey to Greece are attempted in order to generate “exchange refugees” for the maximum of 72,000 Syrian refugees already in Turkey, making a down payment, as it were, the second option would provide the opportunity for an unlimited number of refugees to be transferred to the European Union. Owing to the fact that wordings in the agreement are unspecific (“irregular crossings”), it remains to be seen whether those concerned are people from other countries besides Syrians and, as the

word “humanitarian” is used in the relevant passage, that is to say, not even the words “substantiated right to international protection”, could be other refugees who are in Turkey. Again, this very quickly raises the question about how developments in this issue will interact with domestic developments in Turkey, such as the conflict with the Kurds.

Relocation is the third element of the results of the negotiations at the EU-Turkey summit. It is geared towards the 50,000 to 60,000 refugees of various origins estimated to be in Greece at present. Idomeni is regarded as the symbol of the destitution of those stranded in Greece. But the many other larger and smaller refugee camps have also generated considerable humanitarian, ethical and particularly media-driven pressure for the governments of the EU Member States. The concern is now to work together to reduce this pressure, and a number of considerations frame the measures. One is that illegal entry into the Schengen Area is not to be rewarded anymore. A second is that the Dublin Regulation is to be restored expeditiously and, finally, Greece is to be prompted to do more than it is at present to meet its obligations as an EU Member State with an external border. All of these considerations suggest that the refugees who are already in Greece should not be distributed to the member states of the European Council, but that Greece should instead be provided with the means to help itself. This approach, however, will not achieve the desired organisational and practical results. It seems inevitable at the moment that those 50,000 to 60,000 illegal migrants will also be admitted to the heartland of Europe and that not least in this way, Greece will also be offered compensation for the costly asylum procedures that are now necessary on the islands to support the described resettlement process.

The decisions of the European Council of March 2016 have outlined an approach for a European solution that can be sustainable. But it also requires support being given to Greece in the current situation. Germany will therefore have to significantly step up its efforts regarding the relocation of people clearly in need of protection, which was decided in September 2015, despite the heavy burden it is already shouldering. To this end, it will be necessary for the Federal Government to reach agreement with the federal states on the details of a procedure. It will also be necessary for the question of whether the procedures developed over the past few months are suitable for this or whether there is a need for new and adapted procedures to be examined.

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