ADMINISTERING MIGRATION AND INTEGRATION – A JOINT TASK OF THE GERMAN FEDERAL GOVERNMENT, THE LÄNDER AND LOCAL AUTHORITIES

KEY FINDINGS AND RECOMMENDATIONS

STIFTUNG MERCATOR

PREFACE

The reception and integration of refugees on the one hand and how to deal with the continuing global waves of migration on the other hand are topics dominating public debate in Germany. The challenges facing Germany's administration at all levels continue to exist, though the focus is now more on integration and less on migration and seeking asylum. For many years now, a focus of Stiftung Mercator work has been on ways to successfully integrate migrants in Germany. It strongly supports the authors of this study in their desire to put a greater spotlight on integration and the current challenges facing it, while at the same time making recommendations on how to overcome these.

Funded by Stiftung Mercator, the aim of this study entitled 'Administering immigration and integration – a joint task of the German federal government, the Länder[1] and local authorities' is to contribute positively to the debate on asylum and integration policy in Germany, providing information, arguments and recommendations. To arrive at practical solutions in Germany, we need expert knowledge, especially with regard to administrative and constitutional law.

The authors of this study, political scientists Jörg Bogumil and Sabine Kuhlmann and constitutional expert Martin Burgi, together with their respective teams, have analysed Germany's administrative and organisational structures at the various government levels. The findings presented here clearly show where coordination between the various levels is succeeding and where there are deficits still needing to be overcome. The authors end the study with a series of practical recommendations on how coordination between the federal government, the Länder and local authorities can be improved – with or without changes to existing legislation – and further developed.

[1] The term "Länder" refers to Germany's 16 federal states.

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STUDY BACKGROUND AND GOALS

Germany took in hundreds of thousands of refugees in 2015 and 2016, with administrations at all levels showing flexibility and a great capacity to improvise. Despite these positive aspects, several problems became evident in the field of migration and integration policy. Discussions in Germany are now increasingly focused on whether there is a need to reassign competences for processing applications for asylum and integrating refugees among the various administrative levels.
Established procedures and organisational structures need to be critically analysed and, where necessary, changed. The key issue is to decide which administrative level in a federal country like Germany is best suited to perform which tasks in the field of initially registering refugees, processing their applications for asylum and integrating them.

The initial registration of refugees, the processing of applications for asylum, the integration of refugees: which administrative level is best suited for performing which task?

THE PUBLIC AND POLITICAL DEBATE TAKES NO ACCOUNT OF THE OBJECTIVE PROBLEMS

Where is there a need for debate?
Three years have gone by since the refugee crisis and the excessive demands placed on Germany's political and administrative system. With the crisis now over, the time has come to consider important changes to this system. While the number of applications for asylum submitted to BAMF (the German refugee agency) reached 722,000 in 2016, the highest number since its establishment in 1953, numbers dropped significantly to 198,000 in 2017 and 81,800 in the first 6 months of 2018. Similarly, the number of pending cases peaked at 580,000 in autumn 2016. By June 2018, there were just 53,000 still in the queue.
Given this easing of the refugee problem, the current political discussions regarding asylum policy, for example on establishing transit centres or closing borders, are no longer justifiable. What is however often forgotten in the public debate is that there is still a lot needing to be done in the field of integrating the refugees, especially in light of the figures: a total of 876,000 people were granted a right of residence in one form or another (asylum, protected refugee status, subsidiary protection, a ban on deportation) between January 2015 and June 2018.

Despite the significant drop in applications for asylum, there is still a lot needing to be done in the field of integrating refugees.

In a nutshell, the study

is based on:

- an evaluation of the academic literature and existing documents
- more than 70 expert interviews in ministries and government agencies at all administrative levels

provides:

- an empirical state of play and recommendations for future measures
- a legal analysis of the implementation chances

What this study offers

The aim of this study is to provide answers to some of the main questions posed above. Sponsored by Stiftung Mercator, the study is the result of a one-year comprehensive and systematic investigation of German administrative structures at federal, Länder and local levels. Alongside an in-depth evaluation of the academic literature and existing documents, more than 70 expert interviews were carried out, for example with officials from BAMF and the Federal Government's Central Service Agency *(Bundesverwaltungsamt),* with the federal police, with various administrative courts, regional authorities, state ministries, municipal alien departments, job centres, citizen registration offices, social security agencies, integration centres and other local-level authorities, as well as with representatives from local government umbrella organisations. The study combines information gained in ten German Länder. Building on a study published the previous year (cf. Bogumil/Hafner/Kastilan 2017), the current investigation extends, complements, updates and deepens the work already done. The result is an empirical snapshot of the political and administrative state of play, together with a series of recommendations for future measures. The latter are backed by an analysis of the legal implementation chances and the constitutional conformity of certain recommendations for organisational and procedural changes. The study puts a spotlight on those questions arising from the analysis of the political and administrative situation with current legal relevance.

RESTRUCTURING RECOMMENDATIONS FROM A POLICY AND ADMINISTRATIVE PERSPECTIVE

The main aims from a policy and administrative perspective:

- eliminate unnecessary interfaces
- avoid duplication of work
- speed up administrative processes (without losses of quality)
- improve inter-agency data transfers
- strengthen cooperation – where necessary

FEDERAL, LÄNDER AND LOCAL GOVERNMENTS

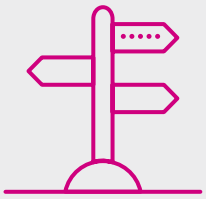
Improved quality assurance within BAMF

The BAMF *(Bundesamt für Migration und Flüchtlinge)*[2] is the federal agency responsible for both migration and integration. Looking specifically at the migration side of its portfolio, its main task is to process applications for asylum (registering applications, checking their legitimacy (Dublin procedure), interviewing applicants, granting or rejecting asylum). The problems experienced in processing the applications (and also the different rates of asylum granted in the various Länder) seem to result from several factors, the main one of which was the BAMF's excessive workload between 2015 and 2017 caused by the high number of applicants. In an attempt to overcome this problem, the BAMF considerably increased its workforce within a short period of time. This led to skills problems, with the new staff lacking the necessary knowledge of asylum regulations, and to problems in the field of intra-agency control mechanisms. Moreover, for a certain time priority was given to quantity instead of quality. The original reason for establishing the BAMF as a central federal agency was to ensure the consistent application and enforcement of legal provisions, thereby guaranteeing equal treatment. Irrespective of the fundamental question as to whether BAMF, in its capacity as a federal agency with many regional offices, is better placed to ensure this than 16 individual Länder-level agencies, the current administrative structures and associated transaction costs are factors speaking against devolving the competence for processing applications for asylum to Germany's 16 Länder. The German federal government should however focus more on improving and assuring the quality of asylum-related processes and less on extending its competences in the field of integration. Against the background of what has been experienced in the past few years, a further institution tasked with monitoring intra-agency processes is recommended (e.g. an **independent parliamentary rapporteur for the BAMF,** similar to the existing position for the German armed forces).

The BAMF as the "Federal Integration Agency"?

Since the entry into force of the German Immigration Act (Zuwanderungsgesetz), the BAMF has been continually extending its competences in the field of integration. Alongside the two key language offerings – the integration courses and job-related language courses –, this also includes (initial) migration counselling. The BAMF is now not just responsible for the development, funding and execution of integration courses, but also for selecting course participants. These extensions of its competences seem to be in line with an intention to shift staff from processing applications for asylum to other areas in the face of the decline in applications. The changes described above are leading to local government concerns that the

[2] The Federal Office for Migration and Refugees (BAMF) is the Centre of Excellence for Asylum, Migration and Integration in Germany. It is a federal authority within the portfolio of the Federal Ministry of the Interior. With its decentralised locations, including branch offices, arrival centres and decision-making centres, it is in direct contact with all players in refugee protection and integration work (http://www.bamf.de/EN/DasBAMF/Aufgaben/aufgaben-node.html).



The processing of applications for asylum remains a federal task, though the BAMF should focus more on improving and assuring the quality of asylum-related processes and less on extending its competences in the field of integration (e.g. language courses, labour market integration).

Division of competences between the BAMF, state and local governments

BAMF: Development of the framework structure, learning content and the funding of language courses

Länder and local governments: Execution of integration courses and job-related language courses

BAMF could develop in the direction of a "Federal Integration Agency". Local authorities view the new system for selecting participants for integration courses as a further step in the direction of the BAMF extending its competences. Though they view this selection as meaningful, they would prefer to be responsible for coordinating language courses, enabling them to better interlink them with other local and regional offerings and with measures for integrating refugees into the German labour market. In their view, the BAMF does not seem to be predestined for performing a mission of key importance for the local integration of refugees.

Management of the language courses: A mission better suited to Länder administrations

Experiences up to now indicate that it would be better to entrust Länder and local governments with integration missions – at the level of administering and executing the integration courses and job-related language courses (selecting and approving providers and teachers, monitoring providers and the courses offered, selecting participants and coordinating language course offerings). The development of the underlying structure, the content of the courses **and** their funding should however remain within the remit of the BAMF.

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THE RESTRUCTURING OF COMPETENCES – A LEGAL ASSESSMENT

A restructuring of competences for integration courses and job-related language courses – which would mainly affect the selection of participants, course offerings and the possible selection of providers – would lead to a more efficient division of competences. It would probably also be necessary from a legal point of view in order to limit the competences currently taken on by the federal level to what is assigned to this level by the German constitution. Any further development of the BAMF towards making it a **"Federal Integration Agency"** would be in breach of the constitution.

Improved interlinkage of refugee counselling and local offerings

At present, the BAMF is also responsible for providing (initial) refugee counselling, with operational aspects entrusted to welfare organisations. It would be a good idea to transfer responsibility for

these missions to local authorities, with regional authorities being made responsible for coordinating and monitoring fulfilment. The goal: to seamlessly link these offerings with local ones, as is already being done in several municipalities. This could be achieved through specific clauses in the BAMF funding conditions, requiring those responsible for refugee counselling to work together with local authorities.

A further upgrading of integration policy in the Länder

The 16 German Länder have experienced a noticeable upgrading of integration policy in recent years. The increase in measures made available is to be seen as a reaction to the reformed Nationality Act *(Staatsangehörigkeitsrecht)* in 1999, the Immigration Act of 2005 and the associated shift in the debate over whether Germany is a host country for immigrants. This increase has been further fuelled by the sharp rise in the number of refugees arriving in Germany since 2015. Every federal state now has a minister responsible for integration and nearly every state has an official specifically responsible for refugees/aliens and their integration. The majority of states also have advisory councils *(Landesbeiräte)* tasked with advising state governments on integration policy issues. Moreover, four Länder have adopted their own integration acts *(Landesintegrationsgesetze):* (Berlin in 2010, North-Rhine Westphalia in 2012, Baden-Württemberg in 2015 and Bavaria in 2016). One of the main tasks of a federal state is to (financially) support local authorities in their integration efforts.

The funding jungle

Each state offers a wide range of funding/support measures, generally replicating existing funding policies used by individual federal ministries or the EU. The problem here is that, due to a lack of transparency, the impression of a **"funding jungle"** arises. In certain cases, a ministry might not even know which funding/support programmes are on offer, especially when these are administered by other departments. Urgent action is needed in this respect. First, coordination between the funding/support measures provided by individual ministries needs to be stepped up. Assigned to the ministry responsible for integration, the goal of such coordination would be to interlink measures, to give them specific focuses and to monitor their effectiveness. Second, websites containing up-to-date information on all funding/support programmes (i.e. independent of which ministry is responsible for them) would help funding recipients to gain a better overview of what is available.

Increase funding/support for local-level integration measures

Integration programmes offered by local authorities are supported by the Länder by means of integration centres and specific integration officials/managers. Two of the most innovative states in this respect are Baden-Württemberg with its support for integration managers and NRW with its support for local integration centres.

With regard to the individual funding/support measures, greater inter-ministry coordination is necessary to interlink measures and monitor their effectiveness.

Integrated local authority departments for migration and integration help cut through “red tape” for support recipients and contribute to the consistent implementation of government policies.

Integrated department for migration and integration
With many local and regional authorities already greatly benefiting from integrated departments for migration and integration, it would seem to be a good idea to create such integrated departments everywhere. They are able to cut through “red tape” and can help support the harmonised implementation of migration and integration policy. Such departments are mainly responsible for migration issues (residency rights, asylum and refugee affairs, naturalisation), integration issues (integration measures and projects, integration-related social work, the coordination of civil society initiatives) as well as for welfare issues (benefits and accommodation for refugees). Having an integrated department is to be seen as an opportunity to better coordinate the work currently done in separate departments.

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ESTABLISHING A SPECIFIC DEPARTMENT FOR MIGRATION AND INTEGRATION

- In the event of the establishment of such specific departments for migration and integration being made mandatory via specific laws adopted by individual Länder, such an intervention would be consistent with the constitutionally guaranteed sovereignty of a local authority to decide how it is structured.

Better coordination required: Case management practised by
1. Local authorities
2. Youth Migration Services
3. Initial Migration Counselling Centres
4. Job Centres

Greater priority for case management
With regard to refugee counselling, we are seeing local authorities assigning increasing priority to local-level case management (comprehensive counselling for individual cases). Such moves stem from the conviction that the individual circumstances of each person need to be taken into account when accessing the various support/funding programmes, all with a view to initiating meaningful integration processes. However, such case management is not only offered by local authorities, but also via the programmes of the federal Youth Migration Service and initial migration counselling centres and via – as yet little heeded – job centres. These four case management structures for migrants need to be better coordinated. It would make sense for local authorities to establish their own centralised case management system, coordinating this effort with the other players such as job centres or migration counselling centres. Hamm in NRW is a good example of such a move.

“ANKER” CENTRES

The 2018 coalition agreement reached by the CDU, CSU and SPD stipulates that the processing of applications for asylum is to be done in the future in “centralised registration, decision-making and repatriation centres (abbreviated to ‘Anker’ centres) in which the BAMF, the Federal Employment Agency, youth departments, the judiciary, aliens authorities and other government bodies work hand in hand.”

The constitutional division of competences in the field of asylum affairs

The scope of the federal government’s administrative competences with respect to the BAMF, a body set up as an independent federal agency *(Bundesoberbehörde),* is greater than the missions currently fulfilled by it, for instance with regard to the deportation of refugees whose applications for asylum have been rejected. With respect to the so-called “Anker” Centres (the word “Anker” is an acronym made up of several words: “An(kunft)” (arrival), “k(ommunale Verteilung)” (municipal distribution), “E(ntscheidung)” (decision) and “R(ückführung)” (repatriation) – i.e. a sort of detention centre), a differentiation needs to be made. The missions currently assigned to the BAMF with regard to processing applications for asylum can be performed in such centres. However, the federal government has **no administrative competence to establish and fund such centres.** Entrusting the BAMF with such tasks would be in breach of Art. 87.3.1 of the German Constitution *(Grundgesetz or GG).* Similarly, pursuant to both GG Art. 87.1.2 and all other assignments of competences in the GG, the federal police cannot be entrusted with law and order tasks concerning the “Anker” centres. The Länder have sole administrative competence, covering not just the above-mentioned tasks but also the establishment, funding and running of these centres. A completely different question is whether the Länder, via a law enacted by the federal government, can be required by the latter to establish such centres.

In the event of the Länder not being prepared to establish such centres, the federal government would have the necessary legislative competence to force them to do so. This competence is enshrined in GG Art. 84.1.2. In the same vein, legal provisions concerning the administrative procedures needed to better harmonise the enforcement of the tasks set forth in the current coalition agreement signed by the CDU, CSU and SPD could be established on the basis of this constitutional provision.

This goal of a better harmonisation in the enforcement of federal legislation through state-level agencies or the BAMF could also, pursuant to GG Art. 84.2 or Art. 86.1, be achieved through the adoption of binding administrative regulations by the federal government. Generally speaking, these constitute a control element in need of revitalisation.

The presence, in the immediate vicinity of such a centre, of a branch of the administrative court *(Verwaltungsgericht)* with jurisdiction for the geographical area in which a centre is located could be dictated by a regulation adopted by the respective state government. If necessary, the federal government could act by tightening the already existing provision enshrined in § 83.2.3 of the Asylum Act.

DATA MANAGEMENT

Aliens register (*Ausländerzentralregister* or AZR): great scope for optimisation

Turning to the topic of data management, it is quite clear that the exchange of data and information across administrative levels and agency boundaries does not always work properly. This has been the cause of many problems, for instance in the registration of refugees, the granting of residency permits, the processing of applications for asylum and appeals against negative decisions. In many cases, these deficits are still negatively influencing the acceptance of the AZR by government officials and their trust in it as a data platform, whether with regard to the quality or the up-to-dateness of the data. The AZR is designed to be the key interface for exchanging data between government agencies responsible for managing migration. Pursuant to the law for improving this data exchange *(Datenaustauschverbesserungsgesetz* or DAVG) adopted in February 2016, the AZR became the core data system for the management of refugees. Despite a series of measures aimed at improving the system and overcoming urgent problems, a lot still needs to be done to optimise the system.

The multiple registration of the same person can only be overcome by biometric fingerprinting, with each new set of fingerprints being checked against all entries in the fingerprint database.

Initial registration: Better biometrics and improved data quality

A core aim should be **to upgrade the AZR to make it the central data platform for managing migration.** This requires correct and unambiguous entries, as well as perfect data quality and reliability. Multiple entries for same person can only be overcome through the use of biometric fingerprinting during initial registration, with all fingerprints stored in a central database and new fingerprints checked against existing entries. Initial registration needs to be further simplified and standardised. It should only be permitted without fingerprinting in justified exceptions.

Potential for further optimisation also exists in the field of the exchange of data and information between the various local government departments responsible for registering aliens, granting benefits and assigning accommodation. This is especially necessary when registered asylum-seekers are assigned to municipalities by the competent state-level agency. Generally speaking, the **parallel use of analogue and digital forms of communication should be banned,** thereby avoiding delays and additional work.

The need for a personal ID to simplify the exchange of data between government agencies.
Exchanging data between government agencies on the basis of a **unique personal ID** (hereinafter "AZR number") is currently not allowed. This causes problems and delays in the identification of refugees. A neutral and unique AZR number used by all refugee-related IT applications would overcome these problems. The Germany-wide introduction of (standardised) **IT-based case files for aliens** could also be a way of harmonising the vast array of local government IT applications and reducing the effort needed for cross-checking data. This would require the Länder to reach agreement on **common IT standards.** It would also need to be supported by appropriate federal government offerings, for instance with IT software being jointly developed by the federal government and the Länder.

Having the BAMF ensure that AZR records are kept up-to-date
In particular in 2015/2016, major delays in entering asylum-related decisions into the AZR occurred in the BAMF. Many municipalities still complain about the lack of reliability of AZR records with regard to the status of records concerning asylum-related decisions. This leads to problems in the issuance of residence permits and, more generally, in the proper execution of refugee-related work in the departments responsible for managing aliens *(Ausländerbehörden* or ABHs).
An important demand: The **up-to-dateness of asylum-related AZR records must** be ensured, with the BAMF entering the necessary information into the AZR concurrently with the sending out of the respective decisions to the applicants. This requirement also applies to details of pending and closed appeals against negative asylum decisions, with these similarly being accessible by ABHs. Government officials should be able to compile progress reports on all asylum and appeals procedures from the data in the AZR. Such reports would help them to understand what has been done and to prevent future mistakes in legal decisions relating to asylum-seekers.

Making it easier for government agencies providing welfare benefits to exchange data
In the field of welfare provision, exceedingly time-consuming and repetitive communication paths, many of them still paper-based, exist between the agencies involved. In particular when a refugee, on receiving residency status, ceases to come under the law governing asylum-seekers and the benefits accorded to them *(Asylbewerberleistungsgesetz* or AsylbLG) and switches to the normal law governing welfare/unemployment benefits *(Sozialgesetzbuch* or SGB II), communication between government agencies is, for technical and data protection reasons, hindered to such an extent that it causes not only a lot more effort on the part of the agencies concerned, but also in many cases leads to cuts in the benefits received by the refugees. At present, welfare agencies are often informed months later of BAMF decisions. In certain cases, this leads to benefits not being

The exchange of data and information between the various local authority departments also needs to be streamlined.
Needed: joint IT standards between the Länder, supported by federal offerings.

The up-to-dateness of asylum-related AZR records must be ensured, with the BAMF entering the necessary information into the AZR concurrently with the sending out of the respective decisions to the applicants.

granted or at least to complicated settlement procedures between the welfare agencies responsible for paying refugee benefits and the job centres responsible for paying welfare/unemployment benefits. To overcome this problem, a direct data transfer between the benefit-paying agencies (in particular the welfare agencies and job centres) should be required by law. Another possibility is a solution based on the written consent of the persons concerned, a solution already possible under current legislation and already used by several local authorities.

The direct exchange of data between agencies granting benefits needs to be enshrined in law.

Proposals for reforms to the AZR

The recommendations in the field of data management point to the need for various amendments to be made to certain existing laws. The following changes should be made:

- The designation of which government agencies are allowed to **enter data into the AZR** and to **access AZR data** (AZRG §7 and §22.1) should be redefined by the legislator, with all government agencies involved with AZR procedures being **obliged** to enter and access AZR data.
- The legislator should define **concrete legal requirements** to enter and access AZR data. This would lead to amendments to AZRG §§ 3 ff, §§ 15 ff and/or to the respective asylum-related/ benefit-payment laws.
- The proposed cross-process use of an **AZR number** would require an amendment to AZRG § 10.4. To make the use of the AZR number obligatory in communications between agencies, amendments would need to be made to the respective asylum-related/benefit-payment laws.
- The proposed increased use of **biometrics** would require a change to § 49 of the Residency Act *(Aufenthaltsgesetz)* and § 16 of the Asylum Act *(Asylgesetz).* The legislator should also change the minimum age of persons to be registered in the AZR from 14 to 6 and harmonise the data entered in the various asylum-related processes. Moreover, it would also need to eliminate the sequencing foreseen in AZRG § 10.2.1/2.
- These amendments would naturally need to take account of **data protection principles,** in particular those governing the purpose of data collection, the need for collecting the data and the requirement to keep the data collected to a minimum. To ensure the enforcement of these principles and the introduction of effective data access rights (as provided for e.g. in AZRG §§ 7 and 22), technical and organisational measures will be necessary. The use of personal IDs (AZR number, biometrics) should be kept limited by means of suitable provisions. For instance, the AZR number could be used in inter-agency data exchanges, while the

use of biometric data for identification purposes would be restricted to agencies in direct contact with the persons concerned (and with a need to identify them unambiguously).

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JOINT IT SOLUTIONS FOR USE BY THE FEDERAL AND LÄNDER GOVERNMENTS ARE STATUTORILY PERMISSIBLE

- From a competence perspective, the proposals made here for redefining the AZR are not in breach of constitutional principles. The legislator is in a position to make the necessary or at least recommended amendments to federal law. The federal government and the Länder would not violate the ban on mixed administration *(Mischverwaltung)* when they coordinate the development of joint IT solutions on the basis of GG Art. 91c and the IT State Treaty via the IT Planning Council.

ADMINISTRATIVE COURTS

A surge in asylum-related court cases

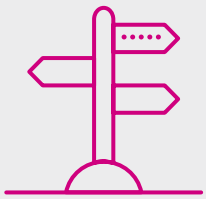
Numbers of asylum-related cases referred to Germany's administrative courts *(Verwaltungsgerichte)* have surged in recent years. In 2014, the number of cases (including appeals and legal reviews) was just 40,000. Although the administrative courts have substantially increased their output through hiring new staff and restructuring their operations (from 56,000 decisions in 2015 to 147,000 in 2017), the number of pending cases had risen to 362,468 by the end of 2017. The courts continue to have to invest major effort in fact-finding and assessment tasks, with the reasons for this to be found mainly in the BAMF: the quality of the asylum-related decisions issued by it is in many cases low (especially with regard to the reasons behind decisions). Moreover, the BAMF is seldom represented in court proceedings and does not answer inquiries made by the courts.

The reason for this overload is the number of cases

The main reason for the excessive workload of administrative courts is to be found in the number of cases and not in the procedure code governing asylum cases. Nevertheless, public discussions and expert debates are centred around proposals for optimising the procedure code. At present, the legal framework used for dealing with asylum-related cases can best be described as a specific asylum-related adaptation of the Administrative Procedure Code *(Verwaltungsgerichtsordnung* or VwGO), in many cases deviating from it. There are thus two main proposals for streamlining court proceedings in this field: the reintegration of asylum-related cases in the Administrative Procedure Code (for instance through deleting the specific rules set forth in the Asylum Act) and the creation of an additional procedure code specifically for asylum-related cases (within the Asylum Act).

Reform proposals concerning the jurisdiction of administrative courts

There are various proposals currently on the table, all needing to be assessed according to different criteria such as which law takes precedence (but with a guarantee of legal protection) or the speeding up and harmonisation of proceedings while continuing to ensure a high degree of quality and acceptance. Having analysed the



Proposals for optimising the law governing the granting of asylum:

- Reintegration in the Administrative Procedure Code *(Verwaltungsgerichtsordnung* or VwGO)
- Creation of an additional procedure code specifically for asylum-related cases

various proposals, we would recommend the implementation of the following proposals:

- The original "single judge" responsibility should be enshrined in law for the main proceedings. At the same time however, the requirement for a case to be transferred to a panel of judges should exist when the decisions of one judge differ from those of another judge belonging to the same panel.
- The legislator should allow administrative courts to refer cases to higher instances in the following cases: where substantive or legal difficulties exist and in cases of fundamental importance or divergence. At the same time, he should also stop higher administrative courts *(Oberverwaltungsgerichte)* being allowed to admit appeals (except in the case of justified doubt over the correctness of an administrative court's ruling or of procedural deficits in the sense of § 138 VwGO).
- The legislator should also permit administrative courts to allow appeals in cases of fundamental importance in interim proceedings. Such appeals play a major role, especially with regard to the Dublin procedure.
- The higher administrative courts should also be given the possibility to refer cases to the federal administrative court *(Bundesverwaltungsgericht).* This possibility would be used to handle questions of fundamental importance for the assessment of asylum- and deportation-related situation in a refugee's country of origin or target destination by the federal administrative court.
- Finally, the legislator should make it easier for courts to work with investigative tools available in other languages.

It is not recommended to implement the proposals made in the public discussions with regard to making judges available earlier (i.e. cutting back on their training), and to include judges on probation and other non-permanent judges on panels.
In contrast to other public proposals, we recommend the following: The ban on appeal courts referring cases back should be maintained. Deportation custody cases should be left within the jurisdiction of ordinary courts and not referred to administrative courts. No requirement should be introduced making the appellant in an asylum case liable for paying the court costs him- or herself.

IN A NUTSHELL
RECOMMENDATIONS

1. The procedure for deciding whether asylum can be granted remains a federal competence. However, the German federal government should concentrate more on improving and assuring the quality of this procedure rather than trying to extend its remit to the field of integration.

2. An independent institution, for instance an **independent rapporteur nominated by the Bundestag,** should be established to monitor the work of the BAMF and act as an external quality assurer.

3. The Länder and local governments should take over more integration-related tasks, especially in the field of integration courses and job-related language courses. The development of the underlying structure, the content of the courses and their funding should remain within the remit of the BAMF.

4. Local authorities should be involved more in (initial) refugee counselling. To ensure better interlinkage of offerings, regional authorities (i.e. rural districts and larger cities) should be given greater coordination and control powers. Institutions tasked with refugee counselling should be required to cooperate with local authorities.

5. Greater cooperation is needed between government ministries involved in migration affairs, along with cross-ministry websites detailing which support offers are available.

6. The positive experiences gained with integrated administrative units specifically set up to offer combined migration and integration support should be seen as “best practices” destined to be copied. Such units cut through “red tape”, allow better coordination and contribute to the harmonised implementation of government policies.

7 Local authority case management practices in the field of refugee counselling are similarly to be seen as “best practices”. It would make sense for local authorities to establish their own centralised case management system, coordinating this effort with other players such as job centres or migration counselling centres.

8 The AZR must be developed into the core data platform for managing migration. For this to succeed, the quality and reliability of the data need to be greatly improved. Moreover, legal and technical hurdles obstructing the exchange of data between the agencies involved at different government levels need to be overcome. The “once only” principle must be given precedence in the management of migration and integration. Current data protection legislation provides sufficient leeway for this.

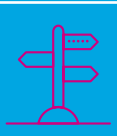
9 The use of the AZR number as a general and unambiguous ID for migrants in all databases and procedures concerning them should be statutorily permitted, together with the introduction of electronic case files for aliens. This would help simplify and speed up administrative procedures. The initial registration of migrants should be done using biometric data.

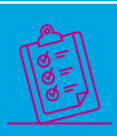
10 To improve the exchange and coordination of data between the many different asylum- and integration-related procedures, joint IT standards for all Länder should be adopted. Similarly, all data should be transferred electronically.

11 Last but not least, the judicial procedure code covering asylum-related court cases needs to be optimised with a view to speeding up and harmonising decision-making.

Key


Summary


Recommendation


Need for action


Call for action

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Stiftung Mercator is a private and independent foundation. Through its work it strives for a society characterized by openness to the world, solidarity and equal opportunities. In this context it concentrates on strengthening Europe; increasing the educational success of disadvantaged children and young people, especially those of migrant origin; improving the quality and impact of cultural education; driving forward climate change mitigation and promoting science and the humanities. Stiftung Mercator symbolizes the connection between academic expertise and practical project experience. One of Germany's leading foundations, it is active both nationally and internationally. Stiftung Mercator feels a strong sense of loyalty to the Ruhr region, the home of the founding family and the foundation's headquarters.

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