Speed and Quality – What Germany Can Learn from Switzerland's Asylum Procedure

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Content[1]

The challenges facing Germany and the need for a best practices exchange

In 2015, Germany's refugee intake system faced a serious crisis. Backlogs in asylum application procedures began to build up, year-on-year, in 2008. In 2013, Germany's Christian Democrats (CDU/CSU) and Social Democrats (SPD) governing coalition agreed in their agenda to reduce the processing period for asylum applications to three months and increase staff hiring at the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF). However, this agreement was reached neither in a timely matter, nor was it sufficiently implemented.[2] As a result, by the end of 2014, growing numbers of individuals seeking asylum began arriving from Southeast European countries not generally recognized as crisis countries. Initially from Serbia, then Kosovo and Albania, most of these individuals had narrow prospects of being recognized as refugees. Experts and politicians from Switzerland, the Netherlands and Norway noted that Germany had only itself to blame for this situation, pointing to the long period needed to process asylum applications, a situation not present in their countries.[3]

Federal Chancellor Angela Merkel's decision in September 2015 to open Germany's borders to refugees on humanitarian grounds posed considerable challenges to what was, at the time, a broadly operational asylum intake system. Despite the introduction of reforms and increases in personnel resources under the BAMF's new leadership, it is impossible to foresee when existing backlogs will be cleared. The appointment in 2015 of a new director, Frank J. Weise, to the BAMF combined with the federal government's decisions to take on specific coordination duties has involved a restructuring and expansion of Germany's BAMF in terms of personnel. The cooperation between the BAMF, Germany's Federal Police and Länder authorities is also targeted for improvement, in particular with regards to the exchange of data.

By the end of 2015, there were in Germany 364,664 unprocessed asylum applications and some 500,000 refugees who had not yet been able to submit their application. In other words, there were some 800,000 to 900,000 people in Germany who had either submitted an asylum application or who wanted to submit an application and were therefore either waiting to submit an application or waiting for a decision. The waiting time for appointments with the BAMF to submit an asylum application was up to one year. A court in the German city of Osnabrück required the BAMF in October 2015 to issue a decision within a reasonable period of time.[4]

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[2] Dietrich Thränhardt, Die Arbeitsintegration von Flüchtlingen in Deutschland, Gütersloh 2015; https://www.bertelsmann-stiftung.de/fileadmin/files/Projekte/28_Einwanderung_und_Vielfalt/Studie_IB_Die_Arbeitsintegration_von_Fluechtlingen_in_Deutschland_2015.pdf.

[3] On Sept. 9, 2015, EU Commission Vice-President Frans Timmerman stated on German television that asylum procedures take eight days in the Netherlands and eight months in Germany, which is why so-called Balkan refugees headed for Germany. Norways Minister President Solberg stated:
"We send those denied asylum back more quickly. That is the best signal we can give to stop the flow of migrants coming from countries that are not in crisis." (Silke Bigalke, Mit Wandel aus der Krise, in: SZ 211, 14.9.2015). The Swiss State Secretary for Migration made similar comments; https://www.bfm.admin.ch/dam/data/bfm/publiser- vice/statistik/asylstatistik/quartal/2015/stat-q1-2015-kommentar-d.pdf.

[4] Flüchtling gewinnt Klage gegen Bundesamt für Migration, Die Welt Online, 14.10.2015; http://www.welt.de/politik/deutschland/article147585296/Fluechtling-gewinnt-Klage-gegen-Bundesamt-fuer-Migration.html.

In addition to these problems, the BAMF struggled with dissatisfaction among employees and other operational matters. In anonymous interviews, employees complained of being isolated and over-loaded with work.[5] Lawyers pointed to decisions issued with incorrect information. The Länder complained that the BAMF was not fulfilling its obligations. When federal authorities responded by pointing to failures on the part of the Länder to follow up on denied applications, the Länder noted that deportations are difficult to carry out once individuals have de facto settled in the country as a consequence of long case-processing periods.

Many of the problems in the refugee intake system have been addressed by civil society organizations. Germany has witnessed a massive mobilization of volunteer efforts across society manifest in generous donations and the organizational efficiency of the German Red Cross, Federal Agency for Technical Relief, the armed forces, and most Länder and communities. In Switzerland, the opposite appears to be the case: Whereas the refugee-administrative system demonstrates a strong functional capacity, broad-based negative views regarding incoming refugees are present among much of the public, and these sentiments have grown since the elections held in fall of 2015. In Germany, the year 2015 marked a climax in volunteering, while in Switzerland we assume a decline in public willingness to volunteer that is explained by cooling attitudes toward refugees in the country.[6]

Given this situation, it makes sense to look beyond our borders for input from neighboring countries. To what extent do other countries do a better job of managing refugee inflows? What can we learn from other countries' experience?[7] In the interest of promoting a best practices exchange from which all stakeholders can learn, the point here is to identify those strategies and institutional concepts that could feasibly be applied for greater overall impact in Germany.

1   The reformed Swiss refugee-admission system: Speed and quality

Switzerland is a natural country to use for comparison purposes. Like Germany, it is constituted federally, and has traditionally admitted many refugees.[8] After significant problems of a political and administrative nature emerged, with refugee policy serving as the subject of contentious political debate for decades, Switzerland has gradually overhauled its refugee-admission system in recent years. A part of the adjustment is running as a representative large-scale trial in Zurich; the new system should be introduced throughout Switzerland by 2017.

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[5]   Arbeitsalltag im Flüchtlingsamt: „Ich bin leistungsmäßig an der Grenze", Spiegel Online, 10.10.2015; http://www.spiegel.de/karriere/berufsleben/alltag-im-fluechtlingsamt-ich-bin-leistungsmaessig-an-der-grenze-a-1056501.html.

[6]   Petra-Angela Ahrens, Skepsis oder Zuversicht? Erwartungen der Bevölkerung zur Aufnahme von Flücht-lingen in Deutschland, Hannover 2015, S. 13; https://www.ekd.de/download/20151221_si-studie-fluecht-linge.pdf;
Denise Efionayi-Mäder/Jasmine Truong, „Wir können uns ein Abseitsstehen der Zivilgesellschaft nicht leis-ten." Zivilgesellschaftliches Engagement im Flüchtlingswesen – Standortbestimmung und Handlungs-bedarf, Neuchatel 2015, 23 f.

[7]   Marcel Leubecher, So wird die Dauer von Asylverfahren verschleiert, in: Die Welt Online, 25.08.2015; http://www.welt.de/politik/deutschland/article145595071/So-wird-die-Dauer-von-Asylverfahren-verschlei-ert.html.

[8]   An earlier comparison was carried out in: Dietrich Thränhardt/Simone Wolken (Eds.), Flucht und Asyl. In-formationen, Analysen, Erfahrungen aus der Schweiz und der Bundesrepublik Deutschland, Freiburg 1988.

The reform's objective has been to render the asylum procedure more effective and better – beyond the simple dichotomy of "welcoming" and "strict" – with the intention of relieving the system of applications that clearly have little chance of recognition. In this way, it should become possible to carry out promising procedures quickly, sparing refugees long waiting times. This is deemed simultaneously important for acceptance of the system and for the efficient deployment of staff. The federal government and the cantons additionally agreed to a new division of labor and a quantitatively fixed organizational framework. The State Secretariat for Migration (SEM, Secrétariat d'Etat aux migrations) has described its goals as follows:

"The SEM carries out asylum procedures quickly and in a constitutionally correct manner. Pursuant to Article 37b of the Asylum Act, the SEM employs a processing strategy to determine which asylum applications should be given priority. In this regard, it takes particular account of the legally mandated processing deadlines, conditions in the country of origin, the application's apparent merits or lack thereof, and the behavior of the persons seeking refugee status. The goal of the processing strategy is the effective handling of asylum applications through prioritization based on application categories. Other objectives of the processing strategy are:

- Reduction in the number of applications that presumably have little chance of success;
- Reduction of pressure in the area of accommodations; and
- Minimization of total refugee-related costs."[9]

In comparing refugee statistics in Switzerland and Germany, the different resident-population figures must also be taken into account. By 2014, somewhat more asylum applications had been submitted in Switzerland relative to the country's population. Above all, there were comparatively more asylum decisions and recognitions, leading to a reduction in the number of pending procedures in Switzerland in 2014.

In 2015, Germany received more asylum seekers than Switzerland both in absolute and proportionate terms. However, the total number is not clearly determinable. The German Federal Ministry of the Interior announced a total of 1,091,894 arrivals according to the EASY initial-registration system. However, instances of double-counting and onward migration must be reckoned with. Moreover, some federal states have not yet registered all asylum seekers in the system. The BAMF accepted 476,649 asylum applications in 2015. However, many asylum seekers were unable to complete an application due to capacity constraints.[10] New BAMF President Weise estimated that by the end of 2015, a total of 660,000 unprocessed or not-as-yet-submitted asylum applications remained outstanding. This author's estimate, based on the data, is of 900,000 as-yet-unprocessed cases. In Switzerland too, 2015 saw an increase in unprocessed applications, but this was relatively small in comparison.

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[9] State Secretariat for Migration (SEM), Migration Report 2014, p. 25; https://www.sem.admin.ch/dam/data/sem/publiservice/berichte/migration/migrationsbericht-2014-e.pdf.
[10] Federal Office for Migration and Refugees, Asylgeschäftsbericht 12/2015, p.2.

Table 1: 2014 asylum statistics compared

2014	Switzerland	Germany
Asylum applications	23,765	202,834
Decisions	26,715	128,911
Recognitions/admittances	14,123	40,563
Incomplete procedures	16,767	169,166

Table 2: 2015 asylum statistics compared

2015	Switzerland	Germany
Asylum applications	39,523	ca. 1,000,000 (476,649 applications)
Decisions	28,118	282,726
Recognitions/admittances	13,486	137,136
Incomplete procedures	29,805	ca. 900,000 (BAMF: 660,000)

In the following section, the exemplary functional elements of the current Swiss system are presented:

1.1 Swiss accelerated procedures, intended to ensure proper functioning of the asylum system

Beginning in 2010–2011, when citizens of the Southeast European EU candidate countries of Albania, Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia were given visa-free status, Switzerland and Germany began receiving an increased number of asylum applications that were clearly without prospects of success. Citizens of these countries now indeed had free access to the Schengen area, but with the exception of a small number of highly skilled individuals, they remained excluded from the European labor market. In these countries – today often called the "Western Balkans" – this resulted in the emergence of an opportunity structure that suggested use of the asylum channel to reach a rich country, combined with the hope of ultimately staying and being able to work. Since many people from Southeast Europe had already found refuge in Switzerland and Germany during the Bosnia and Kosovo crises, both countries were already well known. Given the economic problems, people saw few alternatives. Switzerland had already received many refugees particularly from Kosovo during the Kosovo crisis around 1999. Even in 2014, Kosovars still represented 6.0% of the foreign-born population in Switzerland, with an additional 3.3% coming from Macedonia. For this reason, it was to be expected that Kosovars in particular would be oriented toward Switzerland as a destination.

In 2012, Switzerland reacted with the introduction of a "48-hour procedure" for the visa-exempt Southeastern European states. On 25 March 2013, the procedure was additionally introduced for applicants from Kosovo and Georgia. The success was striking; between 2013 and 2014, the number of applicants from countries with very low levels of political persecution and low chances of being granted asylum sharply decreased. On the other hand, the number of applications from Eritrea, Syria

and Sri Lanka rose significantly (Table 3). Nevertheless, these applications are examined. In 2012, 0.6% of applicants from Kosovo and 0.3% of those from Georgia were admitted – a total of six people altogether. In contrast to Germany, Serbia and other West Balkan states were not among the most significant asylum-application countries for Switzerland in 2014. The repatriation of applicants was also carried out in a consistent manner. If they did not themselves provide any identity cards, they were issued with replacement identity cards. Repatriations did not take place categorically within 48 hours, as the program's name might suggest, but rather within a few days, within the "preparatory phase" of the asylum procedure (see below). This helps to prevent the emergence of repatriation obstacles that might result in longer stays.

For asylum applicants from non-European countries for whom chances of recognition are low, the State Secretariat has since December 2012 gradually introduced an accelerated "Fast-Track Procedure." The primary difference from the 48-Hour Procedure is that for these countries, it is more difficult to carry out expulsions and procure identity papers. The Fast-Track Procedure is currently being used for six countries with a low recognition ratio: Morocco, Nigeria, Tunisia, Algeria, Gambia and Senegal.[11] With this measure too, efforts were successful in reducing the number of unpromising applications in order to be able to focus the asylum system's capacities on the politically persecuted. Both procedures are carried out in "reception and processing centers" (EVZ).

Table 3: Change in the origin of asylum seekers in Switzerland: Effects of accelerated procedures on the most significant origin countries

Country	Asylum applications 2014	Changes 2013-2014 in %
Normal procedure:		
Eritrea	6,297	+ 170%
Syria	3,819	+ 101 %
Sri Lanka	1,277	+ 86 %
Afghanistan	747	- 16 %
Fast-Track Procedure:		
Nigeria	908	- 49 %
Tunisia	733	- 58 %
Morocco	699	- 35 %
48-Hour Procedure:		
Georgian Republic	466	- 29 %
Kosovo	495	- 42 %

Source: Migration Report 2014, p. 22.

Switzerland was not affected by the asylum-application waves from Serbia, Albania and Kosovo at the end of 2014 and the first half of 2015. In Germany, these assumed significant proportions, though recognition has remained largely unsuccessful and the asylum system inoperative for these individuals. The Swiss State Secretary for Migration commented on the relationship between accelerated procedures and the high acceptance rates as follows: "We actually have a higher protection ratio than most countries, because we've taken measures that allow us to get through clearly unfounded

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[11] See State Secretariat for Migration (SEM), Migration Report 2014, p. 25; https://www.sem.admin.ch/dam/ data/sem/publiservice/berichte/migration/migrationsbericht-2014-e.pdf.

asylum applications speedily. We've been successful in this regard with the 48-Hour Procedure for applicants from the West Balkans, among other regions. The Fast-Track Procedures for countries like Nigeria or Gambia with low recognition rates have also been successful. And we are able to counter abuses in the Dublin system. All this has led to fewer unfounded applications. A high recognition rate is a positive sign: The asylum system is now serving those for whom it is intended."[12]

The Swiss State Secretariat for Migration commented on the Kosovo migration as follows: "The increase in Kosovan asylum seekers is related to the migration of several tens of thousands from Kosovo between October 2015 and February 2015. The vast majority of these people traveled to Germany via Hungary. From December 2014 to February 2015, Hungary subsequently received more than 30,000 asylum applications from Kosovar nationals, while German counted more than 21,000 asylum-seekers from Kosovo in the first quarter of 2015. Driving this development was the lack of socioeconomic prospects in Kosovo, along with rumors, deliberately spread by human traffickers, regarding generous reception conditions in Germany. Following local information campaigns and stronger monitoring of the Hungarian-Serbian border, the migration out of Kosovo came to a standstill. Switzerland was affected by this development only to a very limited extent. This was one consequence of the 48-Hour Procedure introduced in 2013 and the very low recognition rate for asylum seekers from Kosovo."[13]

After initially Serbians, then Kosovars and finally Albanians applied for asylum in Germany in large numbers in 2014–2015, the BAMF also sought to solve the problems by "prioritizing." However, this failed as a result of insufficient staffing and action that was essentially too little, too late. Moreover, there was no consistent plan, and new priorities were continually being set, which given the constrained staffing resources amounted to a kind of zero-sum game.

1.2 Structured main procedures with time limits. Differentiation by straightforward cases (60%) and more complex cases requiring additional research (40%)

The actual procedure was codified by the Swiss parliament in August 2015 in the form of an amended law. It has been tested and implemented in Zurich since 2014, in a large-scale test under representative conditions. The new system is characterized by strict deadlines for the individual procedural steps, and is underpinned by appropriate staff resources. Once again, the basic idea is to conduct the procedure rationally and to ensure the efficient use of resources. The free legal advice explained in more detail in the following section also facilitates improved and consolidated procedures, with asylum seekers given a better understanding of the decision-making process.

The procedures are based on a two-part concept that will be gradually expanded to the whole of Switzerland. Straightforward cases (60%) will in the future be carried out in six central processing, reception and departure centers under the sole responsibility of the federal authorities. In this regard, positive decisions are expected to lead to faster recognition of asylum applications, while negative decisions should lead to departure from the country within at most 140 days, either voluntarily or through deportation. Under Dublin procedures, the goal is a return to another country of asylum.

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[12] State Secretary Mario Gattiker: "Wir sind als Asylland nicht attraktiver geworden," in: NZZ Online, 30.05.2015; http://www.nzz.ch/schweiz/wir-sind-als-asylland-nicht-attraktiver-geworden-1.18551894.

[13] State Secretariat for Migration (SEM), Asylstatistik 1. Quartal 2015, p. 2; https://www.bfm.admin.ch/dam/data/bfm/publiservice/statistik/asylstatistik/quartal/2015/stat-q1-2015-kommentar-d.pdf.

Applications that require further research and review (40%) are to be resolved within one year. These applicants are to be accommodated in a decentralized manner, with cantons or municipalities taking responsibility.

The procedure is clearly chronologically structured and defined by the Trial Period Regulation.[14] It begins with a "**preparatory phase**" of at most 21 days, or of 10 days in Dublin cases. Personal data are registered, and fingerprints and any additional means of personal identification secured. The applicant's travel route is clarified to the extent possible. An initial examination process on the reasons for flight takes place, and the question of whether an asylum application is to be submitted is resolved. If responsibility falls to another Dublin state, an additional legal hearing takes place. If the Dublin state involved agrees to the transfer, the corresponding decision will be disclosed within three days. If Switzerland is determined to bear responsibility, a structured asylum procedure – the "**timed phase**" – takes place. This lasts eight to 10 days, and concludes either with a decision on asylum or a referral to the expanded procedure with cantonal housing in order that further investigation can be carried out.

If the asylum application is accepted, the asylum procedure is completed within one month, and permanent integration can begin. If the application is denied, an appeal period of 10 days is provided. If this appeal is also rejected, an expulsion order is issued. Following a rejection, a time limit of seven days is set for exiting the country.

The timed phase may include the following procedural steps:

"a. Preparation for the hearing on the grounds for asylum;
b. Hearing on the grounds for asylum or granting of a legal hearing;
c. Any additional statement by legal representation;
d. Triage: Continuation of the accelerated procedure or shift to a procedure outside of the test phase;
e. Editing of the draft asylum decision;
f. Statement by legal representation on the draft of a negative asylum decision;
g. Final editing of the asylum decision; and
h. Disclosure of the asylum decision."

The aim is thus to maintain a clear structure and promote swift implementation, while at the same time carrying out a multistage evaluation. The inclusion of a statement on the draft asylum decision, on the basis of which the decision may still be changed, is of particular importance.

1.3   Organized legal aid during the procedure

A special feature of the new procedure is the organized legal aid provided from the very beginning, similar to that in the Netherlands. This legal aid provides a qualitative improvement to the procedures. At the same time, it also relieves pressure on the case manager in the State Secretariat for Migration, as the legal advisor can submit the asylum application on the basis of legally valid categories. Adviser have the ability to file a legal complaint if they deem it necessary and promising. Since they have to make a choice in this respect, they are closely involved in the recognition process.

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[14] Swiss Federal Council, Regulation on the implementation of the trial period for accelerated asylum measures (TestV), passed on 4 September 2013, content as of 29 September 2015; https://www.admin.ch/ opc /de/classified-compilation/20131360/index.html.

Overall, the recognition process takes on a greater degree of rationality through this organized legal aid, with ongoing support provided for all applicants. Instead of individual attorneys representing the asylum seekers, there is a central entity that can select the promising cases for appeal, thus gaining influence throughout the entire process.

According to articles 22 and 23 of Switzerland's Asylum Act, legal counsel and legal representation additionally serve to ensure or increase quality and constitutionality, given the accelerated nature of the procedure. The legal advisor is commissioned on the basis of a public tender from the Swiss Refugee Council (SFH), a group of independent aid organizations founded in 1936 that includes Caritas, the Federation of Swiss Protestant Churches' HEKS, and the Swiss Workers Aid Organization, among others. The SFH is "responsible for securing, organizing and implementing the legal counsel and legal representation within the federal centers," as well as for the "quality of the legal counsel and legal representation."[15] For every asylum-seeker counseled, the federal government pays a fixed legal-aid fee of CHF 1,361. The refugees have free access to the legal counselors. These can work from the very beginning to ensure that the grounds for asylum are presented and explicated in an appropriately legal format. They can also help explain the process to the applicants. Legal advice is available for all procedures conducted in the federal centers, not only in the case of appeals following the decisions or only for financially well-off applicants. The intensive degree of counseling available enables applicants to be provided with understanding of the procedure and the procedure criteria from the beginning.

The assignment of legal counsel takes place before the first hearing, in the preparatory phase, and ends only after the end of the process or with the decision to carry out a longer procedure outside the reception center. Such cases then fall under the general rules of the Asylum Act and the Swiss constitution, which in Art. 29.3 guarantees "free legal counsel" for persons who "lack the necessary means." In longer procedures, there is no guarantee of legal aid for all.

Legal advisers take part in all hearings, and can introduce information they have obtained in the interview with the applicant. In particular, they can cast this information in appropriate legal form. Following the hearings, legal advisers receive a draft of the asylum decision. They then have 24 hours to offer an opinion on this draft. They are also responsible for drafting an appeal. All hearing dates are communicated to them in a timely manner. The procedures will continue even if the adviser are not present at a hearing.

The institutionalization of legal advice in a system organized by aid associations institutionally strengthens the position of legal advisor. In particular, adviser have access to an information system on the causes of refugee flight maintained by the SFH, and can benefit from exchange between colleagues. Moreover, they are involved in the overall process, and can influence it if they focus on certain cases or even regard an appeal as being hopeless. Overall, it can be stated that the decision-making process is carried out with considerably more oversight thanks to the presence of the organized legal counsel. It can stand on two legs, so to speak, instead of just one.

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[15] see Testphasenverordnung, Art. 24.

The legal advisers serve as a link between the authorities and the refugees. According to media reports, these tasks are perceived as being particularly burdensome, particularly from a psychological perspective.[16] However, such stresses also result from individual legal or volunteer consultations; indeed, they are likely to be rendered somewhat easier as a result of the organizational affiliation.

It must also be noted that the free legal counsel is at risk. The Swiss People's Party has announced a referendum against the institution of legal aid, with the argument that Swiss citizens themselves do not receive free legal counsel from the state. However, this is not correct. Needy Swiss are absolutely entitled to legal aid, as guaranteed in the Swiss constitution.

1.4   Departure assistance for unpromising cases

From the beginning, applicants with little hope of success are also offered financial assistance for their return. Aid is provided so as to facilitate the creation of a new livelihood in the country of origin. The amount of such aid declines with longer stays in Switzerland. This is intended to provide motivation for expeditious voluntary departures, and relieves burdens on all parties. With the exception of extreme cases of police-accompanied deportations, affected individuals receive a small amount of start-up capital. Cantons are given responsibility for deportations; in practice, this leads to very different approaches.

1.5   Using "social-assistance benefit stops" to force departure[17]

The "social-assistance benefit stop" was introduced in 2008 to encourage asylum seekers whose applications had been denied or subject to a "decision to dismiss" (NEE) to exit the country. This was aimed particularly at Dublin cases. For these persons, the payment of social-assistance benefits is discontinued, and will only be paid in cases of "emergency." For this purpose, the federal government transfers an "emergency sum" of CHF 6,111 to the cantons. The cantons then bear responsibility for further ensuring that a basic minimum subsistence is provided, as required by the Swiss constitution; however, this too should be conjoined with clear incentives to exit the country. Some cantons also take into account whether children or other "vulnerable" people are affected. Others do not, so that even children are affected by the harsh emergency regime.[18] At times, accommodation is granted only on an overnight basis. The payment amounts and procedures against vary significantly by canton.

The general statistics show that with this procedure, the number of people located in Switzerland rejected after undergoing an asylum-application procedure have been successfully reduced both in certain important groups and also overall. However, the discontinuation of social-assistance benefits caused enormous litigation costs, and the measures have been repeatedly adjusted. Overall, no satisfactory solution has yet been found.[19] With regard to country of origin, the groups affected have

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16 Asylanwälte am Limit, Tagesanzeiger Online, 18.02.2015; http://www.tagesanzeiger.ch/schweiz/standard/ Asylanwaelte-am-Limit--/story/10032844.

17 The following figures draw on information provided in the „Bericht Monitoring Sozialhilfestopp. Berichtsperiode 2014" of the State Secretariat for Migration (SEM) and in the reports of the previous years; https://www.sem.admin.ch/dam/data/sem/asyl/sozialhilfe/ab-2008/ber-monitoring-2014-d.pdf.

18 Swiss Refugee Council (Ed.), Nothilfe für abgewiesene Asylsuchende, Bern 2008; https://www.fluechtlingshilfe.ch/assets/asylrecht/asylverfahren/nothilfe-fuer-abgewiesene-asylsuchende.pdf.

19 Margarita Sanchez-Mazas, La construction de l'invisibilité. Suppression de l'aide sociale dans le do-maine de l'asile, Genf 2011.

been widely distributed; the largest origin group in 2014 was Nigerians, accounting for 10% of the whole, followed by Algerians, Tunisians, Kosovars and Moroccans, all groups with low chances of admittance as refugees. The total number of people receiving emergency assistance decreased from 7,654 in the first quarter of 2013 to 5,356 in the last quarter of 2014. However, the percentage of "long-term recipients" climbed from 31% to 52% in the same period. An analysis of long-term recipients during the 2009–2010 period primarily emphasized the length of the procedures, and stressed that protracted procedure times had the consequence of a "certain degree of integration."[20]

Table 4: Composition of nationalities receiving "emergency assistance" in %

	2008	**2014**
Nigerian	17.4	10.1
Algerian	2.9	5.7
Tunisian	0.8	5.4
Kosovar	0.1	4.6
Moroccan	not specified	4.6

Source: Bericht Monitoring, Tab. 12.

The figures on emergency-aid cases at the same time provide the clearest picture on the departure of rejected asylum seekers. As in Germany, problems with the practical implementation of deportation relate to missing identity documents and a lack of cooperation on the part of origin-state governments. At the end of 2015, there were 4,800 foreigners obligated to depart the country, including 831 Algerians and 266 Moroccans. Deportations are once again the responsibility of the cantons.[21] Because Switzerland has a highly regulated economic and social-assistance system, the number of people without official residence permits (those "without papers") is necessarily relatively small. Exact statements are impossible given the nature of the issue.

1.6   Integrated border management

In order to improve overall border management, federal and canton authorities have agreed to co-operate on and coordinate 68 measures (2014–2017) designed to more effectively battle illegal migration and facilitate border-crossing for people traveling legally. As stated in the 2014 Integrated Management Report endorsed by the Federal Council and the Conference of Canton Directors for Justice and Police, several measures have already been implemented.[22] Given the current discussion in Germany regarding problems in coordination between Germany's Federal Police, the BAMF and Länder authorities, the success in establishing a centralized fingerprint data system in which the data taken at entry can be applied in a variety of contexts is noteworthy (points 4.1-3-1 in Integrated Management Report). One objective of the Swiss measures is to expedite the processing of clearly unfounded asylum applications. In a context of open borders, this kind of systematic approach aims to maximize efficiency in both internal and external oversight and thereby ensure a viable asylum-application system.

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[20] Federal Office for Migration, Langzeitbeziehende in der Nothilfe. Schlussbericht, Bern 2012; https://www.sem.admin.ch/dam/data/sem/asyl/sozialhilfe/ber-langzeitbezueger-faavu-d.pdf.

[21] A current overview is provided in a report in the *Tagesanzeiger*, 13.01.2016; http://www.tagesanzeiger.ch/schweiz/standard/abtauchen-statt-ausreisen/story/25734694.

[22] Integrierte Grenzverwaltung. Jahresbericht 2014, von der Steuergruppe Grenze in erweiterter Form am 03.06.2015 verabschiedet; https://www.sem.admin.ch/dam/data/sem/einreise/ibm/ber-ibm-2014-d.pdf .

1.7   Federal authorities absorb the costs

In principle, the cantons are charged with providing refugees and asylum seekers accommodation, food and health care, although this is not the case for individuals at the new reception and processing centers run by federal authorities. Cantons receive aid transfers from the federal government that are paid out as daily allowances and a fixed integration support sum for recognized asylum applicants and provisionally admitted individuals. Cantons also receive emergency assistance funds for individuals scheduled for departure. Initially set at CHF 600, this one-time payment has increased tenfold under pressure from the cantons (Table 5). In addition, cantons receive a "fixed sum for implementation" (Vollzugspauschale) to cover administrative and police force costs that is equal to the fixed emergency assistance sum. In this way, the federal government absorbs most of the financial costs for refugees no matter their legal status. This is in line with the principle of related actions ("Konnexitätsprinzip") which deems that any allocation of tasks to subnational authorities must be accompanied by the financial resources needed to carry these tasks out. In other words, the federal government has a vested interest in facilitating timely and effective asylum-application procedures by preventing financial bottlenecks in a federalist system that can arise when one level issues a decision that must be carried out by another level of government.

Table 5: Federal assistance transfers to the cantons

Recognized refugees	Daily allowance CHF 55.44
	Integration lump sum CHF 6,111
Provisionally admitted	Daily allowance CHF 55.91 CHF (up to seven years)
	Integration lump sum CHF 6,111
Asylum seekers	Daily allowance CHF 55.91
Individuals subject to deportation	Emergency assistance lump sum CHF 6,111

Source: Konferenz der kantonalen Sozialdirektorinnen und Sozialdirektoren[23]

1.8   Humanitarian Visa

The "humanitarian visa" was introduced in 2012 to replace visa applications submitted at a Swiss diplomatic representation, a process that had been abolished by a popular initiative. Until that point, Switzerland was the last European country to have permitted "embassy asylum" applications by which individuals seeking refuge could file directly at a Swiss embassy abroad and avoid dangerous journeys possibly involving human trafficking.

"Foreign nationals wishing to leave their native country for compelling reasons may apply at any time to a Swiss representation abroad to obtain information on whether they would be granted a visa for Switzerland on the basis of their personal circumstances. A visa can be issued in individual cases for humanitarian reasons if it is evident that the applicant's life or physical integrity is directly, seriously and tangibly endangered. As a rule the Swiss authorities presume that individuals who are already in a third-party state are no longer in any danger."[24] "The applicant must therefore be able

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[23] Konferenz der kantonalen Sozialdirektorinnen und Sozialdirektoren, Asylgesetzrevision (10.052); http://www.sodk.ch/fileadmin/user_upload/Fachbereiche/Migration/2012.08.27_Schreiben_SODK_an_ SPK-S_Asylgesetzrevision_Webversion_d.pdf.

[24] State Secretariat for Migration (SEM), Das allgemeine Einreise- und Visumverfahren; https://www.bfm.admin.ch/bfm/de/home/themen/einreise/faq.html.

to prove individual persecution or particularly serious individual humanitarian circumstances, otherwise the application will be refused."[25]

The humanitarian visa is guaranteed for a limited number of cases. It allows holders to enter Switzerland and to subsequently file an asylum claim. Guaranteeing humanitarian visas, like the entire asylum-application process, is continually subject to considerable political pressure. In 2014, 4,722 individuals were awarded a humanitarian visa; in 2015, this number fell to 1,721.[26] The practice is exemplary because it targets directly those individuals in greatest need and spares them the dangers of traveling by boat or at the hands of human traffickers. An evaluation of this visa was published in 2013.[27] This kind of direct entry is not only the most humanitarian approach, it also reduces administrative costs for the state receiving refugees. Instead of helpless refugees who have spent their entire assets on human traffickers, states can take in selected individuals whose identity is determined in advance and whose journey can be organized by the receiving state, insofar as the state of affairs on the ground allows.

2 Conditions influencing the Swiss refugee-admission system

2.1 The political context: a successful immigration policy and political controversies

Switzerland is currently the most successful immigration country in Europe. The country's high wages and earnings have attracted specialists of all kinds and facilitated gains across the board, also for those in leadership positions. In international rankings, Switzerland is consistently ranked as the world's most competitive country. Thanks to high immigration numbers, the country's population has nearly doubled since 1950 from 4.7 million to 8.3 million and continues to grow. Immigration has affected all areas of life and is a major contributing factor to Switzerland's affluence and competitive capacity.[28]

Switzerland has a strong history of providing asylum, particularly to fleeing Germans such as Georg Büchner and Thomas Mann in the 19th and 20th centuries. Featuring a strong economy and an absorptive labor market, Switzerland has profited considerably from immigration. Bilateral agreements with the EU to ensure the free movement of persons have provided the Swiss economy access to Europe's large labor market.

Nonetheless, despite the country's effective immigration policies, immigration and asylum are highly controversial and polarizing issues in Switzerland. Since the 1960s, there have been several initiatives and close referendums addressing fears of "overforeignization" ("Überfremdung"). Over the last 20 years, the Swiss People's Party (Schweizerische Volkspartei, SVP), pursuing often provocative

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25 Swiss Red Cross, Information on the application procedure for humanitarian visas; https://www.fluechtling-shilfe.ch/assets/hilfe/syrien/informationen-humanitaere-visa-de.pdf;
Staatssekretariat für Migration (SEM), Visumantrag aus humanitären Gründen, Weisung vom 25.02.2014, Stand 02.02.2015; https://www.bfm.admin.ch/dam/data/bfm/rechtsgrundlagen/weisungen/auslaen-der/einreise-ch/20140225-weis-visum-humanitaer-d.pdf.
26 SEM communication to the author, status ORBIS 11.01.2016.
27 Universität Luzern/Interface, Evaluation Praxis humanitäre Visa, Luzern 2013; https://www.bfm.admin.ch/dam/data/bfm/publiservice/berichte/ber-visum-humanitaer-d.pdf.
28 See the new analysis of Switzerland's relationship to the EU and its impact: Patrik Schellenbauer/Gerhard Schwarz (Eds.), Bilateralismus – was sonst? Zürich 2015.

but creative party campaigns which often feature a racist tone, has succeeded in nearly doubling its share of the popular vote. Through its referendums and other activities, the SVP has repeatedly inflamed Switzerland's traditionally staid and dispassionate political debates, particularly in the run up to elections. Placing constraints on asylum applications has always been a popular issue, the most recent referendum being introduced in October 2015. And the term "Dichtestress" (lit. "density stress," referring to overfilled residential areas and transport means resulting in environmental and psychological pressures) was voted as Switzerland's "Unwort des Jahres," or most offensive word of the year in 2014. Calls to reintroduce border controls and a campaign against German professors in Zürich were, by contrast, less successful.

Switzerland's parliament, traditionally dominated by a conservative-liberal consensus, is now divided into three voting blocks with the SVP on the right, the FDP Liberals, Conservative Democratic Party (BDP) and Christian Democratic People's Party (CVP) in the center, and the Social Democrats and Greens on the left. At the same time, consistency, stability and practical objectivity are defining features of legislation and administration in Switzerland. As a result of Switzerland's so-called magic formula ("Konkordanzprinzip") and the election of the National Council every four years, each of the country's four major parties are represented in parliament. Furthermore, electoral gains for a specific party do not take immediate effect – nor do they necessarily have a profound impact – on the daily operations of government. Whereas the SVP's electoral gains are fully represented in parliament's lower house, the National Council, parliament's upper house, the Council of States, which features (generally) two representatives from each canton, remains dominated by moderate parties.

Public initiatives and referendums in Switzerland are common across all political levels. They bear considerable legitimacy, although they sometimes involve difficult processes of adaptation. In contrast to the German context, the judiciary in Switzerland serves a considerably weaker corrective function with respect to referendums. Whereas German citizens view their Federal Constitutional Court as an embodiment of the rule of law and as the country's final legal authority, Swiss citizens do not hold similar views toward their Federal Supreme Court and view referendums as an embodiment of democracy. The SVP builds on the democratic legitimacy generated by referendums as a means of protecting Switzerland from external influence and international law in particular, thereby drawing on the cultural capital provided by the Wilhelm Tell legend passed on to each generation of Swiss youth. The public initiative aiming to prohibit the construction of new minarets is, in this respect, part of a historical continuity: the Swiss constitution contained for more than 100 years an article prohibiting the Jesuit order. Asylum rights in Switzerland are not legally ensured in the same way as they are in Germany. Instead, asylum legislation must be repeatedly implemented and secured through the political process, that is, in parliamentary chambers and through referendums. Federal Supreme Court decisions to implement international law in Switzerland are subject to considerable controversy. This is true in particular at the canton level, because many measures and regulations are defined at the canton level and therefore vary across cantons or even communities.

As is the case in Germany, welfare associations in Switzerland play an important role in cultivating policy preferences and the willingness to implement them. These organizations are largely dependent on state support, but have nonetheless demonstrated their independence by ending their cooperation with the state in cases where they feel unreasonable demands have been placed on them in specific cantons or policy areas.

Because Switzerland has proven to be an important country of asylum in recent years, the subject of asylum has often been at the heart of political debate within the country. On the one hand, Switzerland features some exemplary measures; on the other, there have been vehement attacks waged against asylum for those clearly subject to political oppression. The SVP, which capitalizes on the Swiss traditions of neutrality, independence and popular will, and has emerged from an established centrist party, is the most successful populist party in Europe.

Although Switzerland continues to admit asylum seekers with relative ease and the management of their applications has not suffered as it has in Germany, tensions in Switzerland have nonetheless grown, in particular since the election campaign in fall of 2015. Since the election, the SVP has continued to charge the atmosphere with polemics, with the publisher of the Weltwoche and newly elected SVP Federal Councilor Roger Koeppel likening the Federal President and State Secretary for Migration to drivers driving on the wrong side of the highway ("Geisterfahrer").[29] When the newly elected SVP national councilors decided to have their party lead the Federal Department of Finance instead of the Federal Department of Justice and Police (which oversees asylum and immigration issues), he bitterly stated: "The SVP is shirking the issue of asylum." Later, he spoke of a "burial to the[ir] claim to leadership on asylum policy" and claimed that "The election's asylum-Rambos are mutating into toe-the-line sheep in capital Bern."[30] In the end, though asylum issues were at the forefront of public debates, little action was taken in this regard in everyday politics.

At the same time, the SVP's electoral gains have had an impact on the political mood. Switzerland's largest tabloid and the Neue Züricher Zeitung have published worrying reports.[31]

Given the current political climate, there are concerns that some of the measures highlighted here as exemplary may indeed be subject to removal through a future referendum. The provision of legal advice for asylum seekers is one such particularly vulnerable measure.

2.2 The administrative-institutional framework: the State Secretariat for Migration (SEM), its impact and cooperation with the cantons

Pointing to the "growing relevance" of migration and the need for a "broader task area," the Swiss government established the SEM on 1 January 2015.[32] In Switzerland, a State Secretariat is an important governing body within the government administration as there are only seven Federal Departments (ministries) and five State Secretariats. Until the end of 2014, the SEM was designated as the Federal Agency for Migration, itself a merging in 2005 of the Federal Agency for Refugees and the Federal Agency for Immigration, Integration and Emigration (Bundesamt für Zuwanderung, Integration und Auswanderung, IMES). In 2011, the director of the Federal Agency for Migration was fired after it had been revealed that thousands of applications in Iraq for embassy asylum had not been processed. There had been several changes in the Federal Agency for Migration's leadership prior to this event as well. Problems in accommodating refugees and the circumstances surrounding the death of a Nigerian deportee, for example, had been matters of considerable public controversy. In addition, a study published in 2011 shortly after Federal Councilor Sommaruga became Head of

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[29] Editorial by Roger Köppel, Weltwoche, 13.11.2015.
[30] SVP schleicht ab. Die SVP stiehlt sich im Asylbereich davon, In: Weltwoche 51/2015; http://www.welt- woche.ch/ausgaben/2015-51/editorial-svp-schleicht-ab-die-weltwoche-ausgabe-512015.html.
[31] Jahresrückblick 2015. Von der Flüchtlingswelle gestreift, in: NZZ, 25.12.2015.
[32] Bundesamt für Migration wird Staatssekretariat, in: Tagesanzeiger Online, 19.09.2014; http://www.tages-anzeiger.ch/schweiz/standard/Bundesamt-fuer-Migration-wird-Staatssekretariat/story/11350491.

the Federal Department of Justice and Police, showed that asylum seekers faced a wait period of an average 1,400 days to receive a decision. The study revealed the persistence of seriously delayed processing periods, even though Sommaruga's predecessor, Federal Councilor Widmer-Schlumpf, had already fundamentally restructured the agency.[33]

After having undergone a staffing reduction under Federal Councilor Christoph Blocher (2004–2007), the SEM now includes 729 employees. Considering Switzerland's total population of 8 million (approximately one-tenth of Germany's population), the SEM was in 2015 considerably better equipped than the German BAMF in terms of its staffing level proportionate to the population. Since 2012, funding for the body has grown markedly with spending levels for 2015 reaching CHF 1.269 million.

The increase in personnel was used to reduce the backlog of applications. The SEM described this in its "Migration Report 2014" as follows (p. 22):

"In 2014, the last of the asylum applications that had been pending for the longest time were finally resolved after introduction of the new strategy for the handling of Dublin cases and poorly justified asylum applications. At the end of 2013, there were still 10,151 asylum applications pending in the first instance that had been submitted earlier than a year previously. By the end of 2014, the SEM was able to bring this total down to 4,697. Many of these asylum applications were submitted by individuals who truly were in need of protection, which resulted in a corresponding increase in recognition and protection rates."

The backlog was systematically reduced and it was shown that these delays undermined the chances of those refugees whose applications were more likely to be recognized.

In 2015 the structured asylum procedure policy was continued. A comparison in number of the new applications to completed cases shows that applications for asylum submitted by individuals from countries with low prospects of approval are processed more consistently. This is true for applicants from Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia (i.e., the West Balkan states). This is also true for applicants from Morocco, Georgia, Nigeria, Sri Lanka, Turkey and for applicants from Syria, who have a high prospect of approval. There were, however, more new applications than decisions delivered for applicants from Eritrea, Iraq, Iran and Afghanistan, the origin country of a rapidly growing number of refugees.[34] Overall, the number of "pending" cases increased in 2015. Compared to other European member states, the processing of asylum applications in Switzerland appears to be rather well organized.

Key elements of the SEM and the Department for Justice and Police's activity have been to redistribute federal and canton authorities' tasks and duties and to draft a realistic scenario for the timely processing of asylum applications that includes estimates of expected application numbers. Along with the concept outlined above (see section 1.2) that envisions the processing of 60% of cases in six central processing centers under the sole responsibility of federal authorities, a redistribution of accommodation resources has also been planned that involves expanding accommodations in the

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[33] Sommaruga entlässt Direktor Alard du Bois-Reymond. Paukenschlag im Bundesamt für Migration, in: NZZ Online, 31.08.2011; http://www.nzz.ch/paukenschlag-im-bundesamt-fuer-migration-1.12257709.

[34] State Secretariat for Migration (SEM), Asylstatistik, T3J-N: Asylgesuche, Erstinstanzliche Erledigungen und Asylwiderrufe nach Nationen von 01.01.2015 bis 31.10.2015; https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/monat/2015/stat-mt-201510-d.pdf.

six central federally run centers and reducing the size of those under canton authority. The plan was approved in cooperation with the cantons through a lengthy consensus-seeking process.[35]

In its June 2013 report on revising asylum legislation, the Department for Justice and Police presented scenarios that have to date proven for the most part realistic. These calculations included an expected increase of 1,600 to 5,000 people needing accommodation in the centers under federal jurisdiction and a reduction from 25,500 to 9,900 people requiring accommodation in the centers under canton jurisdiction. In addition, the report anticipated an increase of 3,100 to 40,000 recognized refugees and provisionally admitted persons.

Since 2012, Switzerland has also had an "emergency asylum concept" that can go into effect if the number of incoming asylum seekers becomes massive. In the event of such a situation, a special task force will be established that is staffed by "leading individuals from various federal agencies, the army, the intelligence service, border control and individual cantons. The task force director would report directly to the Federal Chancellor for the Department of Justice and Police and would have access to all offices across the federal and canton levels that are involved with matters relevant to asylum."[36] So far, the Department of Justice and Police has not deemed it necessary to set the emergency plan in motion. However, alarmist voices in Switzerland – including politicians in the context of electoral campaigns – have sought to trigger this process.

2.3 The financial framework: are high social-assistance levels an incentive?

In debates in Germany, the question is repeatedly raised as to whether social assistance provided in line with the Asylum Seekers' Benefits Act (AsylbLG) factor into the attractiveness of Germany as a destination or whether people are attracted to Germany's asylum system for economic reasons. This issue has been raised again since Germany's Federal Constitutional Court increased these assistance levels. A comparison with Switzerland offers here an interesting verification opportunity, as the benefits for asylum applicants offered by Switzerland are relatively high on international comparison.

In a major research article from November 2015, the Neue Zürcher Zeitung compared cash allowances for individual asylum seekers across the EU that showed considerable differences in the sums provided. Monthly cash allowances per person in Sweden total €240, €236 in Great Britain, €156 in Germany, €100 in France, €56 in Spain, €33-€49 in Italy, €44 in Austria, €28 in Hungary and €8 in Greece. The article closed by calling on the EU to regulate for consistency across the member states in this regard.

In the article's table listing cash allowances provided by each state, "varies according to canton" appears under Switzerland.[37] Indeed, it is difficult to ascertain a reliable number at the national level since many cantons leave this up to individual municipal social service agencies, which are generally tasked with distributing social-assistance benefits. Some cantons provide accommodation for refugees in large collectives, while others prefer to assign them individual apartments and still others prefer a mixed system. Federal legislation states stipulates that the amount of public assistance paid

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[35] Arbeitsgruppe Neustrukturierung des Asylbereichs, Schlussbericht, 18.02.2014, S. 22; https://www.sem.admin.ch/dam/data/sem/aktuell/news/2014/2014-03-28/ber-agna-d.pdf.

[36] Flüchtlingskrise. KKJPD-Präsident fordert Asyl-Sonderstab, in: NZZ, 10.11.2015.

[37] Leistungen an Asylsuchende. Europas Flickenteppich in der Asylpolitik, in: NZZ Online, 11.11.2015; http://www.nzz.ch/international/europas-flickenteppich-in-der-asylpolitik-1.18644699.

to asylum seekers be lower than that paid to Swiss nationals (Art. 82 Abs.3 AsylG). In the canton of Valais, the distribution and oversight of public assistance to refugees has been delegated to the Red Cross. According to the 2012 schedule, cash payments per person range from €8.30 to €15 per day.[38] The city of Zurich pays CHF 485 per month to the head of a household, the canton of Fribourg CHF 415, and the canton of Valais CHF 986. Apartment and health care costs are also covered by public assistance, as are other services in some cantons. This data applies to asylum seekers under the jurisdiction of a canton. The extent to which asylum seekers can seek employment also varies across the cantons, as some cantons offer employment programs.[39] In-kind benefits are planned for asylum seekers whose cases are managed by federal level authorities.[40] The average level of federal benefit payments (Table 5) totals CHF 1,163 per person per month (calculation based on a 30-day month) in addition to a fixed integration support sum of CHF 6,111. However, each canton can grant higher or lower sums as long as they provide enough to meet the subsistence level as stipulated by the Swiss constitution. Some cantons have built up reserves or calculate deductions based on personal contributions. The cantons differ as well in terms of benefit or cash payments.

For those asylum seekers whose applications have been rejected and who face departure, "emergency assistance" provides a minimum aid level by means of accommodation (often at night only), clothing and medical help. This aid includes CHF 10 for adults and CHF 6 for children in the canton of Fribourg.[41] In other cantons, disbursements – often in the form of vouchers – lie between CHF 6.50 and CHF 12 per day.

When comparing the Swiss and German systems, one must bear in mind that Switzerland is an expensive country and that refugees have fewer opportunities than do Swiss nationals to shop in less expensive neighboring states. It is clear, however, that the similarly high benefit levels offered in Switzerland are not generating incentives among those whose prospects of acquiring asylum are limited. The level of benefit is generally irrelevant when application procedures are processed in a timely manner, as applicants can draw on these benefits for a short time only.

3   Conclusion and recommendations for Germany

Switzerland has reformed its asylum procedures in recent years with the aim of making the system more effective and in ways that move beyond the "friendly" vs. "strict" dichotomy, as is the case with the discussion in Germany. In quantitative terms, this means the system has been relieved of applications that have no hope of achieving recognition and, in qualitative terms, this means the system has been structured and optimized to ensure that applications are processed in a timely manner. The federal government and the cantons have implemented an "integrated border management" program allowing them to cooperate on all measures in a context of open borders, including access to data collected by different government agencies. By facilitating consensus among task authorities,

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[38] Konferenz der kantonalen Sozialdirektorinnen und Sozialdirektoren, Asylgesetzrevision (10.052); http://www.sodk.ch/fileadmin/user_upload/Fachbereiche/Migration/2012.08.27_Schreiben_SODK_an_SPK-S_Asylgesetzrevision_Webversion_d.pdf.

[39] Federal Office for Migration, Sozialhilfestatistik im Asylbereich (eAsyl). Gesamt- schweizerische Ergebnisse 2014, Neuchatel 2015.

[40] Further comparisons in: Führt die Balkan-Route bald ins Tessin?, in: NZZ Online, 22.09.2015; http://www.nzz.ch/schweiz/aktuelle-themen/fuehrt-die-balkan-route-ins-tessin-fragen-antworten-asylwesen-fluechtlingskrise-ld.2088.

[41] Staat Freiburg, Sozialhilferichtsätze für Personen aus dem Asylbereich, Inkrafttreten 01.01.2014; http://www.fr.ch/sasoc/files/pdf68/141010_Normes_aide_sociale_LAsi_2014_DE.pdf.

the program allows the federal government and the cantons to focus more clearly on outcomes. A quantitative scenario put forth by the program's action plan has proven largely realistic. The following elements of the Swiss asylum procedure are exemplary:

1. Accelerated procedures: Applicants from Georgia, Kosovo and countries granted visa-free status are subject to a "48-hour process," applicants from Morocco, Nigeria, Tunisia, Algeria, Gambia and Senegal, whose repatriation is more difficult, are subject to a "fast-track procedure." The speed of these procedures has resulted in considerably fewer numbers of people from these countries submitting applications. The asylum system is therefore relieved of applications and the authorities can focus their time and effort on asylum applications likely to be recognized.

2. Sixty percent expedited procedures: Switzerland has a two-part concept for the remaining cases that has been in place since 2014 in Zürich and is scheduled to be expanded throughout the country. Straightforward cases (60%) will be carried out in six central processing centers under the exclusive responsibility of the federal authorities. Positive decisions are expected to lead to faster recognition of applications, whereas negative decisions should lead to departure from the country within a maximum of 140 days, either voluntarily or through deportation. Applications requiring further research and review (40%) are to be resolved within 12 months. These applicants are to be accommodated throughout the country, with cantons and communities bearing responsibility.

3. Qualitative improvement: The new asylum procedure currently being tested on a large scale involves delivering asylum seekers legal aid that is provided by the Swiss Refugee Council, an independent aid organization. The budget allocates CHF 1,361 per applicant. This legal assistance helps ensure that the reasons for asylum are properly presented and assessed which, in turn, helps expedite the process and ensure that applicants understand the procedure and criteria informing a decision. Legal counsel is provided at each step in the process and includes advisory services in advance of a legal hearing, the participation of legal counsel in a hearing, preparation by legal representation of a statement regarding a decision – particularly if a complaint must be filed. These services are provided before a decision has been delivered and are available to those without financial means. Legal advisors receive a draft of the asylum decision and can issue a statement in response. They can also file a complaint in the event of a negative decision.

4. Financial incentives for departure: From the start, unpromising cases are offered financial support intended to help repatriates create a new livelihood in their country of origin. The more quickly one departs, the higher the sum provided. This incentive structure is designed to facilitate rapid voluntary returns and save authorities the expense und unpleasantness associated with deportation. Foreigners obligated to return with a legally binding removal decision are provided only the legally required "emergency assistance."

5. "Humanitarian visa" through embassies and consulates: In a limited number of cases, Switzerland provides direct visas through its diplomatic representations. This allows, for example, the politically prosecuted quick support without subjecting them to a dangerous journey.

Overall and in contrast to other European states, Switzerland has optimized its asylum application system. The Dublin procedures continue to pose a problem, however, as only a small number of transfers actually take place. The institution of "provisionally admitted persons" represents a further

problem as these individuals are subject to an inferior status which in effect approximates the stay of deportation seen in Germany and does little to promote integration. Despite the successful management of refugee intake that serves as a model for all of Europe, the public debate in Switzerland has been charged with polemics, particularly since the fall 2015 election campaign. This divisive atmosphere will surely continue to influence Swiss politics in the coming months. Public initiatives could result in a rejection of those elements in the Swiss asylum process that are currently deemed to represent good practices.

When considering what Germany can learn from Switzerland, it is important to take into account the sheer number of applications faced by Germany in 2015, which represents an exceptional case. The rapid and massive increase in asylum-seeking applicants witnessed in Germany would have put the reformed Swiss system under extreme pressure as well. Nonetheless, there are a few areas to highlight in the Swiss model that could be useful for Germany:

Long-term coordination in administrative planning and procedural optimization: The Swiss government plans with long-term objectives in mind and tests, as the case in Zurich shows, new regulations and procedures for years before implementing them throughout the country (by 2019 in the case of the two-track expedited procedure). Emphasis is therefore placed on feasibility and adaptation in policy implementation.

The distribution of tasks and duties among federal, canton and community authorities is optimized through consensual procedures in line with the country's magic formula principle that reflect patience. The federal government takes on sole responsibility for the asylum intake centers with expedited procedures. In addition, the federal government finances every aspect of the asylum procedure and accommodation costs on a fixed sum basis. Those authorities bearing both responsibility and costs are thus incentivized to optimize and expedite procedures. Costs are not externalized. Furthermore, tensions between federal-level agencies are less pronounced when processing periods for asylum applications are long.

Quick, sound and effectively organized procedures help everyone involved in the process. Efficient procedures allow recognized refugees to get a faster start on their new lives, facilitate refugees' acceptance within society and reduce accommodation costs. Quick procedures can be provided only when the application for asylum is not used by large numbers of migrants looking to resettle for reasons other than asylum – such as employment. Being able to rapidly identify the reason for migration is therefore essential.

In order to ensure quick quality procedures while improving the protection of rights, the Swiss strategy of providing all asylum seekers ongoing legal assistance throughout the entire process is recommended. Integrated legal assistance of this sort enhances the quality of the procedure and renders redundant appeal procedures based on incomplete information or misunderstandings.

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