



## 2017 Annual Report

# Opportunities in Crisis: The Future of Refugee Policy in Germany and Europe

## Nine core messages

Richard von Weizsäcker, former President of Germany, once said that Germany could learn a lot from the Chinese because the character they use for 'crisis' and 'opportunity' is the same. In this sense, this Annual Report 2017 is simultaneously a 'crisis' and 'opportunity' report. Its starting point is the crisis in European refugee and asylum policy which became fully evident as a result of the high numbers of refugees in 2015. The report describes the shortcomings of this policy; at the same time, it looks at the opportunities arising from the crisis – for Europe and for Germany.

It is not possible to cope with an influx of refugees at the level of the last two years in the long run without conflict and tension. A situation like the one in 2015 should remain the exception. At the moment, asylum seekers within Europe are too unequally distributed and the unresolved security issue is cause for public concern. In addition, significant resources have had to be spent, and still need to be spent, in the individual Member States and within Europe, which can trigger distribution conflicts. Finally, as a result of the high numbers of refugees, the currently valid migration policy procedures and agreements have been put to the test - also those that Germany has benefited from for many years.

The discernible centrifugal forces and tendencies toward re-nationalisation currently at play in Europe can, in the opinion of the Expert Council of German Foundations on Integration and Migration (SVR), only be confronted by completely and convincingly overhauling the European system for refugee protection. It must be refocused to correspond to Europe's interest to manage and monitor refugee migration and satisfy the legitimate need to protect the vulnerable. And the Member States must (be able to) accept this policy as a coherent further development of existing mechanisms. If this succeeds, it can breathe new life into the idea of Europe and foster solidarity between the Member States. This requires not only instruments for dealing with crisis situations, but also a new vision for European refugee and asylum policy overall. It will not be possible to simply return to the status quo ante. A new European policy in this area must effectively protect refugees in line with our values and laws. At the same time, it must be able to manage migration, taking into account and compensating for the various interests and possibilities within Europe in the process. To achieve this aim, 'more Europe' and a more flexible Europe are needed from the SVR's perspective.



In addition to the European challenges of migration policy, this report addresses how asylum seekers can be successfully integrated. There is no question that this requires enormous efforts: it takes a long time for refugees to learn German, acquire the necessary qualifications and find jobs. The good economic situation and the robust labour market in Germany are cause for cautious optimism that this task can be achieved. The age structure of the refugee population and their clear willingness to work and pursue education are other reasons to feel confident: some refugees will successfully enter the labour market. The goal now is to set the course. The heavy influx of refugees has created pressure to act. It should be used as an opportunity to initiate long-overdue reforms in various areas of society. The momentum and overwhelming level of commitment that parts of civil society have demonstrated in dealing with the crisis could also be capitalised on in these efforts.

## 1 Use the crisis of European refugee and asylum policy to bring about reform: risk 'more Europe' during process implementation

The events of 2015 have revealed a structural crisis of the Common European Asylum System that has already been present for a long time. Since then, all parties have agreed that 2015 "may not be repeated". Accordingly, intensive efforts are underway to reform European asylum and refugee policy. In the view of the SVR, this presents an opportunity for key political actors in Europe and at least some of the Member States to join forces (again) to further develop the Common European Asylum System. The aim is not simply 'more Europe' in the sense of a linear transfer of powers from the national states to the EU, but to discuss where and in what form European institutions and standards can achieve better management results with respect to the unsatisfactory European 'asylum anarchy' that exists today.

The SVR generally welcomes the process of Europeanisation currently being driven by the European Commission in the area of process implementation: Frontex, the European Border and Coast Guard Agency, and the European Asylum Support Office (EASO) will have greater standing, and directives will be replaced by regulations to align the processes more closely. A certain degree of scepticism is nevertheless advisable. Not least the experiences with the financial market and sovereign debt crisis have shown that an elaborate set of European rules will come to nothing if jointly agreed rules are not implemented in all Member States.

*(For more information and recommendations for action, see Chap. A.1, A.2, A.3, A.4.)*



## 2 Distribute responsibility within Europe, enable flexible solidarity, grant conditional freedom of movement

The European refugee crisis has shown that the responsibility for refugees needs to be better distributed in Europe. European refugee policy has serious design flaws in this area which urgently need to be addressed. The current practice of giving the countries at the EU's external borders sole responsibility for the implementation of the procedures, the return of failed asylum seekers and the integration of those who have been granted asylum can be seen as one reason for the countries of initial reception to boycott the Common European Asylum System. The defined standards have neither been fulfilled in reception nor in the asylum procedures, and refugees have been able to travel on to other countries unchecked in many cases. It is therefore absolutely right that Brussels is currently considering how to better share the responsibility and burden within Europe. The Commission is proposing a centrally-oriented and state-managed 'hydraulic redistribution': once the reception of refugees in a country exceeds a certain limit, refugees would be automatically redistributed from this country to a country where the limit has not yet been reached. The SVR, on the other hand, proposes making use of refugee intentions to travel on to other countries as a contribution to their distribution within Europe. To this end, people who have been granted asylum would be given certain conditional rights of movement. There are different ways that conditions could be imposed on these kinds of rights, for example, by establishing a close link to the labour market of the destination country or by introducing grace periods for receiving social benefits. It would also be conceivable to tie conditional rights of free movement for recognised refugees to a (solidarity-based) EU-wide mechanism of financial compensation: both the countries of first reception as well as the countries to which many recognised refugees migrate would at least be reimbursed for part of the integration costs that arise from immigration.

*(For more information and recommendations for action, see Chap. A.1, A.2, A.3, A.4.)*

## 3 Partnerships with transit countries are an important step despite dilemmas

The EU-Turkey Statement, commonly referred to as a 'deal', has played a particular role in changes to European refugee policy in the past few months. Structurally speaking, this agreement essentially combines a return mechanism with a resettlement mechanism: when people enter Greece irregularly and do not petition for asylum after their arrival and registration, or their application is rejected as unfounded or inadmissible, they are returned to Turkey. At the same time, Syrian



refugees who live in Turkey are resettled to Europe, in fact, just as many as have been returned to Turkey. The EU also provides funding to Turkey to improve the living situation of refugees living there.

Critical aspects prevail in the public debate: it is doubtful that the asylum applications are thoroughly examined in Greece before refugees are returned to Turkey. There are also fundamental concerns about the conditions in which refugees in Turkey live. In addition, it is feared that the Turkish government (especially in view of the tense internal situation) has gained a dangerous lever against Europe with this 'deal'. These objections are not unfounded. Nevertheless it would be wrong to condemn the path forged with the EU-Turkey Statement across-the-board because it breaks away from a perverse kind of logic: according to current refugee law, only those refugees who come to Europe through irregular channels can claim asylum; those who do not (or are not able to) make the journey literally remain 'outsiders'. The EU-Turkey Statement puts an end to these unequal opportunities. It deserves a chance simply because the possibility of resettlement it creates can help to reduce the number of deaths in the Mediterranean.

The EU-Turkey Statement has also returned an idea to the political agenda which had previously been discussed: shifting the EU's asylum policy more to territory outside Europe. Currently under consideration is setting up reception centres beyond the borders of the EU and carrying out asylum procedures there. The countries of North Africa in particular could be considered possible cooperation partners for these kinds of reception centres. These considerations are similar to those underlying the 'Turkey deal': negative and positive incentives should be combined in such a way that irregular entry would not be worthwhile for as many people as before. People in need of protection could then come to the EU legally through a safe channel; this would significantly reduce the number of irregular, dangerous and, not seldom, fatal trips across the Mediterranean. Those most in need of protection in Europe could be selected for resettlement, such as persecuted women, minors travelling alone, the sick and elderly – protection would therefore not just be reserved for those who are physically strongest or have access to the most resources.

Carrying out asylum procedures in these kinds of reception centres would of course have to meet European human rights standards. Setting up and properly operating these centres would be a medium- to long-term project, it could not be put into practice from one day to the next. There are also many legal issues: Who bears legal responsibility? Who operates and monitors these asylum centres? What options does the EU have at its disposal for legal enforcement? The question of



whether these kinds of asylum centres would also act as a (false) incentive for people who want to give reaching Europe a try legally and with little risk has not been definitively answered.

*(For more information and recommendations for action, see Chap. A.5.)*

## 4 Promote voluntary return, carry out deportations quickly and humanely

The review of an asylum application may reach the conclusion that the asylum reasons specified by the applicant are not sufficient to justify permanent residence. In this case, it is imperative that the applicant voluntarily returns to or is deported to the country of origin. If residence does not end through appropriate measures, the asylum system quickly loses its credibility. A careful assessment needs to be carried out as part of this process to determine whether leaving the country would pose a life threatening risk. If not, the individual must be deported if he does not return voluntarily – even if civil society frequently protests and demands that this person continue to be tolerated or granted permanent residence. It is important that not too much time passes between a negative ruling on an asylum application and the applicant's return. The longer the person in question stays in the country, the more difficult it is to legitimise enforcing the obligation to leave the country.

The deportation of failed asylum seekers is often hampered by the fact that the countries of origin are not willing to take back their citizens. In some cases, no treaties exist or documents for the return trip are delayed or even not issued. From the SVR's point of view, it is difficult to understand why there is not greater European cooperation in this area. The European Union could create attractive packages to increase the willingness of the countries of origin to take back their citizens again quickly. These kinds of packages could and should include measures for organised and perhaps even circular migration as well as projects for encouraging economic and scientific cooperation.

*(For more information and recommendations for action, see Chap. A.9.)*

## 5 Preserve two legal tracks: don't mix asylum and labour migration

People have many reasons to leave a country. Even though some of these reasons are completely understandable at a personal level, they have nothing to do with asylum law. From the SVR's perspective, a coherent immigration policy must ensure that the various migration channels are not merged. In particular, the right of asylum should not be watered down and false incentives created,



e.g. if immigration policy allows applicants to change track from asylum to labour migration. It can make sense to grant asylum seekers a work permit if their procedure is taking a long time through no fault of their own. If, however, they are generally allowed to change track at an early stage, this inevitably creates the wrong incentives. Moreover, asylum has a special protected status in terms of human rights. If it is linked too closely with the labour market, public opinion and the acceptance of refugee immigration could reverse if it leads to an oversupply of labour: it could then be argued that less asylum should be granted because there are so many job seekers in the country.

Germany and many other countries have for some time been using the instrument of declaring certain countries of origin safe (for example, those that have long been candidates for membership in the European Union). The goal is to send a signal to people who want to immigrate that asylum is not the right channel for everyone. It is also an attempt to keep the various immigration channels legally separate. This instrument is, however, still used inconsistently in the EU. The Commission and Parliament therefore recently initiated the idea of drawing up a joint EU-wide list of safe countries of origin. The SVR generally supports this step: a list of this kind would not only send a signal to asylum seekers that immigration from certain countries of origin has no hope of success, but would also prevent the emergence of a 'protection lottery', meaning that an asylum seeker from country A is treated as a citizen of a safe country of origin in EU Member State X and not in EU Member State Y. Generally the SVR, however, warns against overestimating the effects of this instrument that its opponents fear and supporters hope for (depending on their position). Based on experiences with national lists of safe countries of origin the impact is mainly symbolic: on the one hand, it signals to nationals of certain states that planned migration usually cannot be achieved through asylum. On the other hand, it communicates to the native population that migration is managed and limited also in the area of refugees and asylum.

*(For more information and recommendations for action, see Chap. A.7, A.8.)*

## 6 Integrate refugee children as quickly as possible in standard school structures, structure vocational education more flexibly

It is now widely recognised that education plays a particularly important role in successful integration, especially for children and young people. This further increases the significance of schools as central 'integration institutions' since a considerable portion of immigrant refugees in 2015/16 were minors. The SVR generally cautions against establishing a special infrastructure for schooling refugees. Instead education policy should focus more on a question that is important



beyond refugee migration: how can ethnic and social segregation in schools be prevented and language acquisition integrated into daily life?

But the challenges don't just involve early childhood and school education, they also have to do with vocational training. Many refugees are too old to be integrated into school, but still at an age where they could consider pursuing vocational training. For this group, the structures of vocational training in Germany are important (they are internationally respected). The goal here is to maintain a good balance: on the one hand, the established structures of vocational education and training must be preserved. On the other hand, training courses should be more flexible to adapt to the living conditions of the refugees, e.g. creating a more modular structure. Appropriate reforms aim to allow young refugees to enter the system of vocational education at a low level and gradually gain the necessary skills. In the framework of the Bologna Process, university studies were divided into a Bachelor's degree programme followed by a Master's course. Along these lines, consideration could also be given to at least attempting to break down vocational training into basic training and a subsequent phase of specialisation. Credits earned could be recognised and certified more quickly through a modular structure. This would also boost motivation to even pursue vocational training or a corresponding degree in the first place. Modular structures traditionally create strong resistance and without a doubt also pose certain risks. However, creating more flexibility would not just benefit refugees, it would also help, for example, young people who have been unemployed for longer periods. As a result, the opportunity should therefore be used to sensibly supplement vocational education and training structures this way.

*(For more information and recommendations for action, see Chap. B.2, B.3.)*

## 7 Use standard structures to integrate refugees into the labour market, recognise more informal qualifications

Also in the area of labour market integration, the SVR is more sceptical about special measures for refugees. Instead full use should be made of the proven portfolio of labour market policy that has been fundamentally reformed over the last few years. Germany has well-established active as well as passive labour market policy measures. In one respect, however, there is a special task related to refugees: reliable structures and instruments must be developed to also recognise informal skills (such as professional experience). Apart from that, the SVR warns against overestimating the impact of refugee immigration on the labour market (positively or negatively). The influx of refugees will



not solve the problem of the shortage of skilled workers that exists in some industries and regions in varying degrees and will continue to intensify even further in the coming years. Nor is to be expected that immigration will negatively impact the level of employment of domestic workers or the wages in the segments of the labour market relevant for refugees.

*(For more information and recommendations for action, see Chap. B.3.)*

## 8 Make use of domicile requirement 'in the city' and 'in rural regions'

The federal government has adopted a domicile requirement as a crisis instrument. This allows the federal states (*Länder*) (taking into account many clauses) to require recognised refugees to live in a particular place for three years. This allows the *Länder* to also prevent (further) influx to large cities. Rural regions and regions affected by outward migration should use this time and ensure that the recognised refugees make their homes there in the defined time period. The priority areas here are living space, employment opportunities and inclusion in local voluntary structures – from the volunteer fire department to cultural associations or sports clubs.

Ideally, some refugees who have been granted asylum stay in the local community. Still, after this time period ends, an unknown number will leave and move to the places their relatives already live, usually the large cities. If segregation is to be prevented in residential areas and in society (keyword 'parallel society'), the cities - also for integration policy reasons - should undertake measures early on to build affordable living space. The domicile requirement creates breathing space to reflect, identify scope for action and become active. This time should be well used.

*(For more information and recommendations for action, see Chap. B.1.)*

## 9 Communicating values is important; but internalising values requires shared practice and social participation

At the latest, since the events on New Year's Eve on Cologne's Cathedral Square when many women were the victims of sexual assaults perpetrated by groups of young men mostly from Arab countries and North Africa, integration into the German system of values and norms has been assigned similar importance as education and labour market integration. This is why the 'orientation' portion of the integration courses was increased from 60 to 100 hours as part of the reform of these courses. The SVR supports this but at the same time cautions against overestimating the effect on the value



system of refugees that this increase in hours could trigger. Without a doubt it is important to convey and strongly promote the values of the Basic Law and the German rule of law. It is also legitimate to demand that they are respected. A true internalisation of these values, however, can never be forced.

This kind of internalisation requires that people can assimilate into society, and that they experience these values practically in everyday life and don't just learn about them in theory. Instead xenophobic statements and crimes against refugees increased over the course of 2016. This not only thwarts integration efforts, but also undermines precisely the same set of values that is to play a primary role in encouraging this integration. Here the police and judiciary authorities responsible are also called on to consistently prosecute these kinds of criminal offenses; this way they can help ensure that integration is successful.

Successful integration requires great effort, especially from the newcomers themselves. As relevant empirical surveys show Germany is so attractive to them particularly because it is liberal and open. But they also have to make their contribution to this openness and liberal mindset. Intolerance toward people with different religious beliefs or different opinions should not be accepted nor should open xenophobia. The newcomers must adapt to the fundamental values and standards of the German legal system; it is not acceptable for them to dodge the rule of law due to religious or traditional misgivings.

But successful integration also requires willingness on the part of the host society. The aim here is to make it clear that the inclusion of people in need is a human imperative. And it is important to convey the message that the refugees of today are the fellow citizens of tomorrow. They want to and will make their contribution to the economy and society. The approach should be realistic; it should be guided by optimism that points the way to the future.

*(For more information and recommendations for action, see Chap. B.4.)*