

Scandalous conditions in German refugee centres

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13 September 2014

Twenty-one years ago, the right to asylum in Germany was abolished for all intents and purposes, with the introduction of the so-called “asylum compromise” by the Christian Democrats and Social Democrats. Now the Grand Coalition in Berlin is taking the axe to what remains of asylum protections. Once again, it is being said the “boat is full”, the same rhetoric used in the past to turn away refugees from the civil war in Yugoslavia.

As a result of the conflicts in Syria and Iraq, Afghanistan, Mali, the Central African Republic, Somalia and Eritrea, the numbers of those seeking asylum in Germany from poverty and persecution is rising. The Federal Office for Migration and Refugees (BAMF) forecasts that by the end of the year, some 200,000 refugees will seek asylum in Germany, about 60 percent more than in 2013.

Rather than offering these refugees a humane shelter, the Interior Ministry is tightening up legislation to make life for them in Germany a living hell; or refuse their application for asylum from the start as unfounded, so that these desperate people can be deported as quickly as possible.

In an interview with the tabloid *Bild am Sonntag*, Interior Minister Thomas de Maizière (CDU, Christian Democratic Union) talked about introducing an upper limit for accepting refugees. “I consider the debate necessary about how many refugees Germany, as a wealthy country, can accept”, he said. The CDU’s sister party in Bavaria, the Christian Social Union (CSU), is even talking about reintroducing internal EU border controls, in order to turn away refugees before they set foot on German soil.

The current circumstances for housing refugees are scandalous. Some local authorities have already started placing refugees in inhumane conditions in tent camps, old factory buildings, schools or barracks.

Interior Minister de Maizière is trying to reduce the numbers of refugees through various legal initiatives. These include categorising Serbia, Macedonia and Bosnia Herzegovina as so-called “safe third countries”. Refugees in these countries would then have no chance of obtaining asylum in Germany. The law already passed by the federal parliament is now subject to negotiation in the Bundesrat, the upper house of parliament, where the Grand Coalition does not enjoy a majority and is dependent on votes from various federal states where the Green Party forms part of the state executive.

The Greens are quite ready to participate in the horse-trading about tightening up the law for refugees. The Baden Württemberg Green Party state premier, Winfried Kretschmann, and party

chairman Cem Özdemir have indicated they would be willing to accept attacks on asylum rights in return for a few minor improvements, such as the issuing of work permits. On this issue they are retreating from their own demand for the abolition of the residency obligation, by which the authorities can prescribe that refugees remain in a certain area.

The Asylum Seekers Benefits Act, introduced in 1992 as part of the asylum compromise, providing that refugees receive benefits far below the poverty line, will not be amended. Even the Supreme Court has recently threatened to rule these benefits should be aligned with the level of welfare benefits paid to Germans.

According to the *Süddeutsche Zeitung*, the leader of the government’s negotiating team, Chancellery Minister Peter Altmaier (CDU), indicated there was “room for manoeuvre in many areas”, as long as it was possible to reduce the numbers of asylum seekers.

If Serbia, Macedonia and Bosnia Herzegovina are categorised as “safe third countries”, refugees from these countries face the abolition of their constitutionally-enshrined individual right to protection from persecution. Their asylum applications would then be immediately rejected as “clearly unfounded” and those affected and their families deported as quickly as possible.

At present, about one in five asylum seekers in Germany comes from these countries. Often, these are members of the Roma minority, who are discriminated against and persecuted in their countries of origin. The EU Human Rights Commissioner has confirmed this many times.

In Germany, the numbers of such refugees granted asylum has been kept artificially low through various bureaucratic manoeuvres, as the refugee organisation Pro Asyl has reported. Asylum applications are mainly rejected in expedited proceedings. In this way, the number of successful asylum applications from Serbia in 2013 was officially reduced to 0.2 percent. The Administrative Courts then reject almost all of those who appeal; of 107 asylum seekers only one was granted legal protection. In France, the percentage of Serbian refugees granted protection stands at 17 percent.

The government’s asylum statistics are regularly used to imply that the right to asylum is being “abused”. De Maizière has said of the 2013 figures, “only nearly 14 percent of the applications for asylum are recognised”.

It can already be foreseen that additional countries such as the Russian Federation, Kosovo or Albania will soon be declared to be

“safe third countries”, thereby effectively banning migrants from these countries.

In addition, the regulations covering deportation are being tightened up and pre-deportation detention extended. This summer, Germany’s practice of pre-deportation detention was declared illegal by the European Court of Human Rights and by Germany’s Federal Court of Justice. A “new definition of the right to remain and for ending residency” should not only restore the status quo, but enable the mass detention of refugees.

In July, the EuGH European Court upheld the cases lodged by refugees from Vietnam, Syria and Morocco about the conditions of detention in ordinary prisons. This practice of detaining those awaiting deportation in normal prisons—where they are denied access to a mobile phone and the Internet, and face limited visitation rights, being kept in cells—breaches the EU deportation guidelines, under which those being held prior to deportation should be kept in special detention centres and not be treated like prisoners.

Just weeks later, the Federal Court of Justice ruled that the general detention of refugees awaiting deportation to another EU state on the grounds they represented a “flight risk” was unlawful. The case was brought by a Pakistani refugee who had been detained prior to deportation back to the supposed country of first entry to the EU, Hungary.

The court justified its decision saying that the Dublin III Regulations from January 2014 had introduced clear “objective, legally enshrined criteria” for evaluating a flight risk. Since then, according to refugee organisations, 60 to 80 percent of those in pre-deportation detention in Germany are held under the Dublin regulation, hundreds of refugees have had to be immediately released.

Both decisions confirm that thousands of refugees in Germany are detained completely illegally and are treated in an inhumane manner. According to an anti-torture group, in 2013 some 5,000 refugees sat in pre-deportation detention, being held for up to eight months.

The Hanover lawyer Peter Fahlbusch, who has represented more than 900 refugees being detained prior to deportation since 2002, of which half were being detained illegally, called the court decision a “nail in the coffin” for pre-deportation detention in Germany. However, he is deceiving himself. The Interior Ministry has already prepared new regulations covering pre-deportation detention, laying out six grounds for considering “considerable flight danger”, according to which almost any asylum seeker in Germany could be detained.

According to the draft legislation, a “considerable flight risk” exists when an asylum seeker travelled to Germany via other EU states. If asylum seekers provides their true identity and the route taken, they would almost automatically land in detention. On the other hand, if they disguise their route and identity, they are placed in detention as a “flight risk”.

In the draft legislation, the powers of the courts are curtailed since the security authorities can detain a refugee if the probable duration of the detention is less than that required to obtain a court decision. This opens the way for arbitrary police action, and contravenes the constitutionally enshrined limitation of the courts’

powers. According to article 104 of the constitution, only the courts may order the deprivation of liberty. The *Süddeutsche Zeitung* therefore called the draft legislation “perfidy by statute”.

Many local authorities are overwhelmed by the demand for providing accommodation for refugees. Even though the rise in refugee numbers was predictable, no provisions were made locally and regionally and the existing reception facilities are bursting at the seams.

In Zirndorf near Nuremberg, some 1,600 refugees are squashed into a facility meant for only 650. In Bielefeld, the reception facility had to be closed for several days because a measles epidemic broke out as a result of the cramped and unhygienic conditions. In Duisburg, the city authorities rented junk properties; a planned tent camp has since been closed.

These problems have little to do with the rise in refugee numbers. Rather, for years, reception facilities have been closed because the authorities have assumed the numbers of refugees would fall to the low level of 2006 to 2008, when only 30,000 sought asylum in Germany.

In addition, in eight of Germany’s federal states a so-called “duty to accommodate” applies, which prevents placing refugees in private accommodation. In Bavaria, a regulation applies stating that refugees should not be placed in accommodation “hindering their return: it should make return to the country of origin easier”.

This measure is meant to isolate refugees and cut them off from access to education and work. The cramped conditions, the noise, and the terrible unhygienic conditions are the cause of illness and depression, and serve to harass and grind them down.

A study commissioned by UNICEF criticises Germany for breaching the UN Convention of the Rights of the Child by the way that refugee children are treated. Such children are held for years in mass accommodation facilities, have only limited access to medical care and wait far too long for kindergarten and school places. They are denied any independent grounds for claiming asylum.

Heribert Prantl comments in the *Süddeutschen Zeitung* that the impression should not be given that in accommodating refugees a “visual emergency is being organised in order to ensure social acceptance” for the planed tightening up of asylum rights.



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