

ASYLUM SYSTEMS IN THE EUROPEAN UNION: TOWARDS A SUPRANATIONAL POLICY OF PROTECTION?

CASE STUDIES OF GERMANY AND SWEDEN

Sistemas de asilo en la Unión Europea:
Hacia una política supranacional de protección?

Estudios de caso de Alemania y Suecia

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ABSTRACT

This research paper looks at the development and the current state of harmonisation of European Union policies in the area of asylum, particularly within the Common European Asylum System (CEAS). It analyses the asylum systems of Germany and Sweden as case studies, based on the extraordinary number of asylum applications that these countries received in the years 2015-2016 and the example they provide for the management of mass immigration. Apart from an evaluation of individual strengths and weaknesses of their systems, the paper discusses their role in European asylum policies. It argues that EU members, instead of moving towards a more extensive supranational system, will become more prone to unilateral decisions in order to deal with the challenges of a migration crisis.

Keywords: European Union, asylum system, migration crisis, Germany, Sweden

Esta investigación contempla el desarrollo y el estado actual de armonización de las políticas de la Unión Europea en el área de asilo, particularmente en el Sistema Europeo Común de Asilo (SECA). Analiza los sistemas de asilo de Alemania y Suecia como estudios de caso, basado en el número extraordinario de solicitudes de asilo que estos países recibieron en los años 2015-2016 y el ejemplo que proporcionan de la gestión de la inmigración a gran escala. Aparte de una evaluación de las individuales fortalezas y debilidades de sus sistemas, este trabajo discute su papel en las políticas europeas de asilo. Su argumento es que los miembros de la UE, en vez de moverse hacia un sistema supranacional más extenso, tendrán a afrontar los desafíos de una crisis migratoria a través de decisiones unilaterales.

Palabras clave: Unión Europea, sistema de asilo, crisis migratoria, Alemania, Suecia

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1 Introduction

The phenomenon of mass immigration in 2015 and 2016, also titled as a “refugee crisis”, has confronted the European Union with one of the biggest challenges in its recent history. A record number of 1.2 million asylum applications was registered only in 2015, most of them from Syrian nationals. It is fair to say that this phenomenon divided the EU and the societies in its Member States to a certain degree: While many showed sympathy and solidarity with the asylum seekers – the German word creation “Willkommenskultur” became a famous term –, the mass immigration also stirred fears and fuelled nationalist and xenophobic discourse.

The Common European Asylum System (CEAS) come under increasing pressure. Instead of providing a reliable framework for fairness and solidarity, the system exhibited all of its major shortcomings. National authorities struggled to deal with the enormous arrival numbers, especially in the countries at the EU’s external borders: Most immigrants crossed the Mediterranean Sea and arrived in Greece and Italy. Many of them continued their way to Central and Northern European countries like Germany and Sweden, which were among the top countries in receiving asylum applications – both in absolute numbers and in proportion to their population. The EU has not yet achieved to distribute asylum seekers more evenly, not least due to considerable differences in national asylum systems in spite of the CEAS.

This paper will introduce the norms prescribed by the CEAS and provide an overview of the current state of harmonisation of asylum policies across the EU. Based on their popularity as destination countries and their relevance for the development of the CEAS, the German and Swedish asylum systems shall subsequently be analysed in case studies. Returning to the European framework, the paper will intend to answer the following overarching questions: Is the EU steering towards an actual supranational policy of asylum, or are its members becoming more prone to unilateral decisions to tackle migration crises? Will Germany and Sweden provide best practices for the CEAS or rather tend to reduce their own standards?

2 EU competences in asylum policy

2.1 From “Third Pillar“ to CEAS

Within the European Union, asylum policy has long been perceived as a matter of national sovereignty. While the EU treaties acknowledge it as an area of common interest, States have been reluctant to transfer competences to a supranational level.

The Maastricht Treaty of 1992 established the “third pillar” for cooperation in the field of “justice and home affairs” and included, among others, the following issues: asylum policy, rules governing the crossing of the EU’s external borders, immigration policy and policy regarding third-country nationals, judicial cooperation in civil and criminal matters and police cooperation.¹ Yet, the treaty explicitly stated that EU members maintain their responsibilities for “*safeguarding internal security*” and only provided for mutual consultation and coordination.²

The 1999 Amsterdam Treaty endowed the EU with legislative rights in the field of immigration and asylum, marking the beginning of a gradual unification of national asylum systems.³ The goal was to ensure minimum standards. It was not until the 2009 Treaty of Lisbon that the aim of creating a common policy in asylum matters was set up, leading to the Common European Asylum System (CEAS).⁴ This policy was to be based on values of solidarity and shared responsibility among all EU members.

The CEAS is currently governed by three directives and two regulations:

- The revised **Dublin Regulation** has the objective of distributing refugees across the EU. For each refugee, the Regulation determines a State responsible for examining the asylum claim according to various formulas and criteria; this is usually the State in which the person entered EU territory. The Dublin Regulation is supposed to prevent secondary movements of refugees (also pejoratively called “asylum shopping”). Adopted in 1990, the Regulation was

¹ Treaty of Maastricht on European Union. Art. K.

² Ibid., Art. K.2-3.

³ European Parliament. *The Maastricht and Amsterdam Treaties*. 2.

⁴ Treaty of Lisbon. Art. 63.

revised several times; in May 2016, the EU Commission proposed the latest reform “Dublin IV”.⁵

- The **Asylum Procedures Directive** provides for common standards for asylum procedures, sets time limits for them and is meant to make asylum decisions more fair and efficient.⁶
- The **Qualification Directive** establishes minimum standards for granting international protection. Its aim is to make asylum decisions more transparent and to ensure that asylum seekers can invoke their rights regarding benefits and integration measures.⁷
- The **Reception Conditions Directive** introduces standards for adequate housing, food, access to health care and other reception conditions for refugees. It also rules that detention should be a last resort, and that human rights must be respected at all times.⁸
- The **Eurodac Regulation** permits police and security authorities access to a fingerprint database of all asylum seekers, whenever this measure is deemed necessary for the investigation of serious crimes or terrorism.⁹

Certain legislation from the area of immigration also applies to asylum seekers and refugees, such as the Family Reunification Directive.

2.2 Comparing EU and national competences

The following table provides an overview of CEAS legislation and the discretion it leaves to national law in certain areas:

⁵ "Country responsible for asylum application (Dublin)." Migration and Home Affairs - European Commission. Accessed May 6, 2017. https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/examination-of-applicants_en.

⁶ European Parliament and Council. *Directive 2013/32/EU “Asylum Procedures Directive”*.

⁷ European Parliament and Council. *Directive 2011/95/EU “Qualification Directive”*.

⁸ "Reception conditions." Migration and Home Affairs - European Commission. Accessed April 2, 2017. https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/reception-conditions_en.

⁹ "Identification of applicants (EURODAC)." Migration and Home Affairs - European Commission. Accessed April 24, 2017. https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants_en.

	EU legislation	National competence
Qualification for protection		
Assessment of asylum claims	Documents, facts and circumstances to be taken into account for an accurate assessment; definition of "persecution"	States define national institutions/authorities for the assessment and take final decisions
Subsidiary protection	Criteria for granting subsidiary protection	States define national institutions/authorities for the assessment and take final decisions
Basic rights for beneficiaries of protection	I.a.: Non-refoulement; residence permit (min. 3 years for refugees; min. 1 year for subsidiary protection); right to travel; access to integration programmes	States may determine conditions for granting the same benefits to family members of beneficiary; they may also provide more generous rights
Asylum procedure		
Communication with the applicant	States must inform applicant about procedure, rights and obligations and results; must facilitate an interpreter	States may provide more generous conditions
Appeal	Effective right of appeal for all decisions taken in framework of asylum procedures	States may define responsible authorities
Legal assistance for appeal and review	Free legal assistance and representation provided by the State	May be provided only to those lacking resources, and only by counsellors designated by the State
Provisions for unaccompanied minors	Free legal assistance and representation provided by the State	States may use medical examinations to determine the age of unaccompanied minors
Right to residence	Right to temporary residence while application is pending	States may provide more generous conditions
Inadmissibility of claims	Conditions for inadmissibility (e.g. another EU State is competent according to Dublin)	States take decisions, but may not establish additional criteria
Special procedures	Permission for States to accelerate procedures, as long as they provide "fundamental guarantees" of Directive	States may apply special accelerated procedures at their discretion; e.g. in the following cases: if the applicant has likely destroyed an identity document; if the applicant comes from a 'safe country of origin' or 'safe third country' according to the national list
'Safe countries of origin' and 'safe third countries'	Only basic criteria laid out by Directives	States may establish national lists
Material reception conditions		
Standard of living	"Adequate"; considering "specific situation of vulnerable persons"	States may require contribution to costs
Type of housing	Accommodation centres, private houses, flats, hotels and other adapted premises	States may also use other adequate premises

Modalities	Protection of family life; consideration of gender and age-specific concerns	States have discretion as to how to take these concerns into consideration
External communication	Possibility of communicating with relatives, legal counsellors and representatives of national/international bodies and NGOs and granting them access to the facilities	States may provide more generous conditions
Vulnerable persons	Children; unaccompanied children; disabled people; victims of torture and violence	States may include more vulnerable groups
Provisions for vulnerable persons	Individual assessment of needs must be made; specific housing provisions	States may decide when the assessment is realised and how to address special needs
Health care		
Type of health care	Minimum: emergency care and essential treatment of illnesses and of serious mental disorders	States may provide more generous conditions
Provisions for victims of torture and violence	"Appropriate mental health care" and "appropriate training" must be provided	States may further define and provide more generous conditions
Education		
Schooling for minors	Shall be granted under similar conditions as for nationals; max. 3 months waiting time after lodging asylum claim; "preparatory classes" including language classes	States may provide more generous conditions
Vocational training	Access shall depend on access to labour market	States may grant access to vocational training
Employment		
Access to labour market	Must be granted after max. 9 months	States may provide more generous conditions
Conditions	No binding provisions	States may define conditions for access to labour market (e.g. limitation to sectors, or priority to other groups)
Detention		
Grounds for detention	Exhaustive list of detention grounds to avoid arbitrary detention	States may not establish additional grounds
Limit to detention period	Only as long as grounds are applicable	States may not extend detention for other reasons
Legal assistance	Free legal assistance and representation provided by the State	May be provided only to those lacking resources; only by counsellors designated by the State; and only within time limits. States may apply same treatment as for nationals
Modalities of detention	Only in specialised detention facilities; if in a prison: separated from ordinary prisoners	States may provide more generous conditions

External communication	Possibility of communication; access for family members, legal advisers or counsellors and persons representing relevant NGOs recognised by the State	States may provide more generous conditions
Provisions for vulnerable persons	Regular monitoring and adequate support; in case of minors: detention only as measure of last resort	States may provide more generous conditions

(Source: Compilation based on Directive 2013/32/EU “Asylum Procedures Directive”; Directive 2013/33/EU “Reception Conditions Directive”; Directive 2011/95/EU “Qualification Directive”)

Most of the areas not contemplated by CEAS legislation are subject to national regulations. This affects especially those measures that are necessary for an effective and successful integration of asylum seekers and refugees. EU law lacks provisions e.g. for language classes for adults, access to universities, or recognition of titles. In other critical areas, it leaves considerable margin to States: The possibility to create national lists of ‘safe countries of origin’, which can be the basis for accelerated asylum procedures, has widened the recognition gaps for certain nationalities across the EU – an issue which will later be discussed more in detail. Furthermore, access to education, health care and labour market are only regulated in basic terms.

For these reasons, there are still striking differences in national asylum laws and practices. The table in Annex I outlines the essential aspects of asylum procedures and reception conditions in those EU Member States represented by the European Council on Refugees and Exiles (ECRE). The implementation of EU law varies considerably, e.g. regarding labour market access: While many countries stick to the maximum waiting time of nine months after the application (e.g. Croatia, France, Hungary), other countries shorten this period or do not require a waiting time at all (Sweden). The United Kingdom has the longest waiting time (twelve months) of all EU countries and does not even comply with EU norms.¹⁰

¹⁰ Patrick Kingsley. "Asylum seekers in UK 'face longest wait for work permit in Europe'". The Guardian, September 29, 2016.

3 National asylum systems: A comparison of Germany and Sweden

Germany and Sweden stand out in European asylum statistics due to the sheer amount of applications that these States have received in the last two years. In 2015 and 2016, a total number of 1,222,194 applications were lodged in Germany; this means 15 applications per 1,000 inhabitants.¹¹ In 2016 alone, Germany took more than 625,000 first instance asylum decisions, which accounts for 57% of all first instance decisions in the EU. Sweden comes second, with close to 100,000 decisions – which is remarkable due to its rather small population size in comparison with other EU States.¹² It received a total number of 191,816 applications in 2015 and 2016, amounting to 19,6 applications per 1,000 inhabitants.¹³

The two countries are not only hugely popular destinations for asylum seekers, but also have similar positions regarding the CEAS and coincide in their demands for greater solidarity. They definitely provide interesting case studies as to the management of mass immigration, which is why they have been chosen for the following analysis – including an assessment of their differences as well as particular strengths and weaknesses.

3.1 Asylum procedure

3.1.1 Types of procedures and length

GERMANY

At German land borders, migrants without the necessary documents can be rejected for the reason that they have arrived through a ‘safe third country’. If those migrants can be returned immediately to the neighbouring country in question, they may not be able to

¹¹ BAMF – Bundesamt für Migration und Flüchtlinge. *Schlüsselzahlen Asyl 2016*. Accessed June 3, 2017. http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Flyer/flyer-schluesselfzahlen-asyl-2016.pdf?__blob=publicationFile.

¹² Eurostat. *Asylum statistics*. Accessed April 28, 2017. http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics.

¹³ "Statistics." Migrationsverket – Swedish Migration Agency. Accessed June 3, 2017. <https://www.migrationsverket.se/English/About-the-Migration-Agency/Facts-and-statistics-/Statistics.html>.

request asylum in Germany.¹⁴ If migrants have already crossed the border, they must refer to the Federal Office for Migration and Refugees (in its German acronym ‘BAMF’), an office of the aliens department, or the police to register. The BAMF is responsible for processing the asylum claim. There is a special procedure for asylum seekers arriving at the airports of Berlin, Düsseldorf, Hamburg and Munich: An accelerated decision determines whether they are allowed to leave transit zones and enter German territory.¹⁵

In March 2016, a new legislation introduced accelerated procedures for the following cases: if the applicant comes from a ‘safe country of origin’ (see section “Differential treatment for specific nationalities”) or if they have misled the authorities about their identity or presented false information, deliberately destroyed their identity document, filed a subsequent application, refused to be fingerprinted, or been expelled due to serious reasons of public security. Accelerated procedures have to be decided within 7 calendar days and can only take place in BAMF offices assigned to ‘initial reception centres’, where applicants have to stay while their decision is pending.¹⁶

Regular asylum procedures have had an average length of 150-210 days in the last years.¹⁷

SWEDEN

In Sweden, asylum applications can be made at the border or on Swedish territory at a branch office of the Migration Agency, which is also in charge of first instance decisions. Within the regular asylum procedure, Swedish law allows for prioritised examination (for applications that are likely to be well-founded, or those from vulnerable persons) and a fast-track processing.¹⁸ The latter is different from the accelerated procedure, which can be applied in the following cases: if the applicant has provided false information, if the application is unrelated to the right of asylum or presents manifestly insufficient grounds,

¹⁴ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 15.

¹⁵ "Flughafenverfahren." BAMF - Bundesamt für Migration und Flüchtlinge. Accessed April 18, 2017.

<http://www.bamf.de/DE/Fluechtlingsschutz/Sonderverfahren/FlughafenVerfahren/flughafenverfahre-n-node.html>.

¹⁶ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 38.

¹⁷ *Ibid.*, 19.

¹⁸ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Sweden*. 2016 Update.

and if the applicant is a newly born child whose parents have been issued with a transfer decision.¹⁹

The length of asylum procedures has increased after the sharp rise in applications in 2015; in March 2016, the average asylum case took 262 days to be decided.²⁰ No priority is given to applications based on the country of origin.²¹

3.1.2 Legal advice and representation

GERMANY

In Germany, asylum seekers do not have the right to free legal assistance. NGOs and charities usually provide basic legal counsel but are not allowed to represent asylum seekers in their procedure. Yet, they help finding a lawyer if the asylum seeker wishes for legal advice and representation at his own expense. The accessibility of these NGO services often depends on the proximity of the reception centres to the organisations' offices. Some of them have facilities within certain reception centres, but asylum seekers accommodated in rural areas usually have to travel to bigger towns and cities and are therefore considerably disadvantaged.²²

There is no guarantee that asylum seekers receive legal advice before their interview, and very often they do not. If the asylum procedure is taken to court proceedings, applicants can request legal aid to support the costs of their lawyer. The granting of this aid depends on how the judge rates the chances of success of the case.²³

SWEDEN

Asylum applicants in Sweden have the right to free legal assistance. Those applicants who are likely to be rejected generally receive counselling and advice on their right to appeal. They can request specific lawyers or legal experts at their preference or accept

¹⁹ "Accelerated procedure - Sweden." European Council on Refugees and Exiles. Accessed April 22, 2017. <http://www.asylumineurope.org/reports/country/sweden/asylum-procedure/procedures/accelerated-procedure>.

²⁰ Bernd Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 11.

²¹ Ibid., 12.

²² European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 25.

²³ Ibid.

the councillor assigned to them by the Migration Agency. These counsellors are paid, but not employed, by the Agency.²⁴

No legal counsel is provided in accelerated procedures for manifestly unfounded cases, except when the applicant is an unaccompanied child. Similarly, legal assistance in Dublin procedures is only provided to unaccompanied children or applicants with exceptional grounds, e.g. poor reception conditions in the receiving country.²⁵

3.1.3 Differential treatment for specific nationalities

GERMANY

Germany currently considers the following countries as ‘safe countries of origin’: all EU countries, Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia, Montenegro, Senegal and Serbia.²⁶ It is assumed that applicants from these countries are not in danger of persecution, and therefore do not qualify for refugee status. In their personal interview, applicants have to present proof to refute this assumption; otherwise their application will be rejected as “manifestly unfounded”.²⁷ Decisions are taken within the timeframe of an accelerated procedure and deadlines to lodge appeals are shortened.

Furthermore, Germany has introduced clusters to shorten the procedures for countries of origin with both high (above 50%) and low (below 20%) protection rates.²⁸ Syrians, Eritreans, Somalis, Iranians and religious minorities from Iraq are grouped in the first cluster due to their usually high protection rate, while applicants from ‘safe countries of

²⁴ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 10.

²⁵ "Short overview of the asylum procedure - Sweden." European Council on Refugees and Exiles. Accessed April 22, 2017. <http://www.asylumineurope.org/reports/country/sweden/short-overview-asylum-procedure>.

²⁶ "Sichere Herkunftsstaaten." BAMF - Bundesamt für Migration und Flüchtlinge. Accessed April 15, 2017. <http://www.bamf.de/DE/Fluechtlingsschutz/Sonderverfahren/SichereHerkunftsstaaten/sichere-herkunftsstaaten-node.html>.

²⁷ Ibid.

²⁸ "Ankunftscentren." BAMF - Bundesamt für Migration und Flüchtlinge. Accessed April 15, 2017. <http://www.bamf.de/DE/Fluechtlingsschutz/Sonderverfahren/SichereHerkunftsstaaten/sichere-herkunftsstaaten-node.html>.

origin' are assigned to the second cluster.²⁹ Examples of recognition rates from 2016 are 82% for Somalis (first cluster) and 0.3% for Serbians (second cluster).³⁰

There are two additional clusters for Dublin cases and complex profiles.

SWEDEN

Sweden has no official lists of 'safe countries of origin' or 'safe third countries'. However, there are provisions similar to the concept of a 'safe third country': Applicants may be returned to a country where they are not at risk of persecution, death penalty, corporal punishment or inhuman treatment, where they can effectively apply for protection, and where they have reasonable ties.³¹ The law does not specify further requirements for the protection available to the applicant.³²

Although the Migration Court of Appeal has ruled that the classification as a "manifestly unfounded" claim must always be based on the individual circumstances of the case, the Migration Agency has in practice considered all claims from certain countries of origin as "manifestly unfounded". This currently applies to the Western Balkan countries.³³

Asylum claims in this category are usually subject to accelerated procedures.

Unlike Germany, Sweden does not have a specific category for usually high recognition rates; it is all the more striking that its recognition rate for Somalis was only 47% in 2016, little more than half as high as in Germany. The rate for Serbia is more similar to the German statistics: 2%.

²⁹ "Das Asylverfahren in Deutschland: Schema des Ablaufs." Bundeszentrale für politische Bildung. Accessed May 12, 2017. <http://www.bpb.de/gesellschaft/migration/kurzdosiers/227451/das-asylverfahren-in-deutschland?p=all>.

³⁰ Eurostat. *First instance decisions on applications by citizenship, age and sex. Annual aggregated data (rounded) migr_asydefsta*. Accessed June 4, 2017.

³¹ Government Offices of Sweden. *Aliens Act (2005:716)*. Ch. 5, Section 1b(3).

³² "Safe Third Country - Sweden." European Council on Refugees and Exiles. Accessed April 12, 2017. <http://www.asylumineurope.org/reports/country/sweden/asylum-procedure/safe-country-concepts/safe-third-country>.

³³ "Accelerated procedure - Sweden." European Council on Refugees and Exiles.

3.2 Material reception conditions

3.2.1 Accommodation and financial allowances

GERMANY

After their registration, Germany distributes asylum seekers among the Federal States according to a quota system. They are then forwarded to an initial reception centre, where they have to stay up to six months (applicants from ‘safe countries of origin’ have to stay there for the whole procedure).³⁴

Once their obligatory stay at the initial reception centre ends, they have to move to ‘collective centres’ for the remaining part of their procedure, including appeal.³⁵ The centre is usually located in the same Federal State as the reception centre; this State is responsible for organising accommodation. Sometimes the responsibility is transferred to municipalities, which can decide whether the management of the centres shall be carried out by themselves or by NGOs or facility management companies.³⁶ If collective centres are not efficient, Federal States may decide to redistribute asylum seekers to decentralised accommodation, i.e. individual flats, at their discretion.³⁷ Asylum seekers must stay in the municipality they are assigned to for the whole procedure due to a territorial limitation of their residence permit.³⁸

At the end of 2015, there were 182,254 people living in initial reception centres, 416,689 in collective centres, and 375,608 in decentralised accommodation.³⁹ Due to lack of sufficient housing, gyms, containers, warehouses, tents, offices and other shelters have been used as emergency accommodation since 2015.⁴⁰

³⁴ "Das Asylverfahren in Deutschland: Schema des Ablaufs." Bundeszentrale für politische Bildung. Accessed May 12, 2017. <http://www.bpb.de/gesellschaft/migration/kurz dossiers/227451/das-asylverfahren-in-deutschland?p=all>.

³⁵ German Federal Ministry of Justice and Consumer Protection. *Asylum Act*. Section 53.

³⁶ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 59.

³⁷ *Ibid.*, 60.

³⁸ German Federal Ministry of Justice and Consumer Protection. *Asylum Act*. Section 56.

³⁹ "Asylbewerberleistungen - Empfängerinnen und Empfänger nach Bundesländern." Statistisches Bundesamt (Destatis). Accessed April 18, 2017. https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Soziales/Sozialleistungen/Asylbewerberleistungen/Tabellen/Tabellen_EmpfaengerBL.html. Note: The numbers include people with a “tolerated stay” and certain other groups with temporary residence permits.

⁴⁰ Sophie Krause. "Zehntausende Flüchtlinge leben noch in Notunterkünften." Spiegel Online. March 01, 2017.

Asylum seekers are only entitled to financial allowances if they do not have own resources at their disposal, or once they have used them up.⁴¹ They usually receive these allowances during their whole procedure, including appeal.

According to the Asylum Seekers' Benefits Act, revised in 2016, financial benefits are calculated on a monthly basis and amount to €135 for single adults living in accommodation centres (where basic necessities are provided), and €351 for single adults living outside of these. For the latter, rent, heating and household goods are paid on top.⁴² Each additional member of the household receives further allowances.

These amounts are about 90% of the standard social benefit in Germany. However, asylum seekers can also be partially paid in kind; it largely depends on local authorities how much cash benefit they provide them.⁴³

SWEDEN

Asylum seekers in Sweden are usually placed in individual flats, often integrated into big apartment buildings considered as "centres", with free electricity and water. These flats are provided by municipalities, which can negotiate with the Migration Agency how many places they want to offer to asylum seekers. If these places are not sufficient, the Migration Agency may rent accommodation from private landlords, youth hostels and hotels, companies, military barracks or the Swedish church. Asylum seekers can also choose their own housing if they have sufficient financial means.⁴⁴

At the end of 2016, 63,063 asylum seekers lived in housing arranged by the Migration Agency, and 35,449 lived in private housing without rent allowance. Another 24,196 were housed in special accommodation due to health or other reasons.⁴⁵

During peaks of arrival numbers in 2015, many asylum seekers were forced to share accommodation or sleep in temporary housing, such as gyms.

⁴¹ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 54.

⁴² German Federal Ministry of Justice and Consumer Protection. *Asylum Seekers' Benefits Act*. Section 3.

⁴³ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 55.

⁴⁴ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 13.

⁴⁵ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Sweden*. 2016 Update. 47.

Financial allowances are calculated on a daily basis and made available through a banking chip card. If food is included in the accommodation, these allowances amount to SEK 24 (€2.61) for a single adult; if food is not provided, they amount to SEK 71 (€7.71) for a single adult plus complements for children.⁴⁶

3.3 Health care

GERMANY

In German reception centres, newly arrived asylum seekers undergo a physical examination, including X-ray of their respiratory organs, to check if they suffer from contagious diseases.⁴⁷

Medical assistance is limited to cases of “*acute illness and pain*”, vaccination and “*preventive medical check-ups*”. Dental treatment must only be provided in emergencies.⁴⁸ Pregnant women and those who have recently given birth have the right to medical care, nursing and midwife assistance.⁴⁹

Asylum seekers are given health insurance vouchers at reception centres, but need to apply for them again if they move to other types of housing.⁵⁰ They are not allowed to see a doctor without previously asking the local authorities for permission, which then decide whether the treatment is necessary.⁵¹ In order to avoid the resulting delays in medical treatments and to relieve the administrative burden on municipalities, the Federal States of Berlin, Hamburg, Bremen, Thuringia and Schleswig-Holstein introduced a health insurance card that enables asylum seekers to receive medical care without permission.⁵² Lower Saxony, Rhineland-Palatinate and North Rhine-Westphalia adopted the model, but the municipalities largely refuse to implement it due to a fear of higher costs payable to the health insurance funds.

⁴⁶ "Financial support for asylum seekers." Migrationsverket - Swedish Migration Agency. Accessed April 25, 2017. <https://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/While-you-are-waiting-for-a-decision/Financial-support.html>.

⁴⁷ "Das Asylverfahren in Deutschland: Schema des Ablaufs." Bundeszentrale für politische Bildung.

⁴⁸ German Federal Ministry of Justice and Consumer Protection. *Asylum Seekers' Benefits Act*. Section 4.

⁴⁹ Ibid.

⁵⁰ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 68.

⁵¹ "Migration: Warten auf die Gesundheitskarte für Flüchtlinge." Zeit Online. May 15, 2016.

⁵² "Mehr Flüchtlinge erhalten Gesundheitskarte." Deutsches Ärzteblatt. January 23, 2017.

SWEDEN

Sweden requires asylum seekers to undergo a health assessment to get advice on health care. They generally have a right to acute health and dental care; the exact provisions are determined by the country council or region. Furthermore, asylum seekers have access to childbirth care, abortion care, contraception advice, maternity care and care according to the contagion prevention law.⁵³

For asylum-seeking children under 18 years, free health and dental care is provided under the same conditions as for other minors in Sweden. Adult asylum seekers, however, need to contribute SEK 25-50 (€2.57-5.13) to medical appointments.⁵⁴

3.4 Education

3.4.1 Access to education for children

GERMANY

As for every minor in Germany from the age of 6 on, schooling is compulsory for asylum seeking children. Exact regulations vary in each Federal State.⁵⁵ In some States, compulsory schooling ends at the age of 16, so that 16- or 17-year-old asylum seekers may have difficulties entering the school system. Those who have not finished school in their country of origin are often barred from earning a degree.⁵⁶

It has also been criticised that many children in initial reception centres do not have effective access to the school system, and that Federal States often fail to provide sufficient means of integration (e.g. language and literacy courses).⁵⁷

⁵³ "Health care." Migrationsverket - Swedish Migration Agency. Accessed April 26, 2017. <https://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/While-you-are-waiting-for-a-decision/Health-care.html>.

⁵⁴ Ibid.

⁵⁵ "Schulsystem." BAMF - Bundesamt für Migration und Flüchtlinge. Accessed May 15, 2017. <http://www.bamf.de/DE/Willkommen/Bildung/Schulsystem/schulsystem.html?nn=1367904>.

⁵⁶ Kampagne Schule für alle. Accessed April 25, 2017. <http://kampagne-schule-fuer-alle.de/>.

⁵⁷ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Germany*. 2016 Update. 66-67.

SWEDEN

In Sweden, asylum-seeking children have the right (but not the obligation) to attend preschool and school under the same conditions as other local children. In order to attend upper secondary school, they must be younger than 18 years when they arrive.⁵⁸

If there are more than five asylum seeking children of one mother tongue in the same area, they have the right to receive lessons in that language.⁵⁹

3.4.2 Access to education for adults

GERMANY

Asylum seekers who have requested an employment permit in Germany generally have the right to start vocational training. According to the integration law adopted in July 2016, asylum seekers are now granted a “tolerated stay” for the whole duration of their training (usually 2-3 years) and another six months afterwards to find employment.⁶⁰ Before, many firms were hesitant to contract asylum seekers as their permits were only issued for periods of 6 months.

For asylum seekers with high protection rates (i.e. those from the first cluster, see “Differential treatment for specific nationalities”), as well as for other immigrants with residence permits or a ‘tolerated status’, the German government offers language and orientation courses. Recognised refugees or those with subsidiary protection can be obliged to participate in these courses if their level of German is considered insufficient; if they refuse to attend them, their benefits can be cut.⁶¹

With the 600 lessons of the regular language courses, immigrants are expected to achieve at least a basic intermediate level of German.⁶² They further receive courses preparing

⁵⁸ "Education." Migrationsverket - Swedish Migration Agency. Accessed April 26, 2017.

<https://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/While-you-are-waiting-for-a-decision/Education.html>.

⁵⁹ "Access to education - Sweden." European Council on Refugees and Exiles. Accessed April 22, 2017. <http://www.asylumineurope.org/reports/country/sweden/reception-conditions/employment-and-education/access-education>.

⁶⁰ "Integrationsgesetz in Kraft: Die Neuerungen im Überblick." Pro Asyl. Accessed May 25, 2017. <https://www.proasyl.de/news/integrationsgesetz-in-kraft-die-neuerungen-im-ueberblick/>.

⁶¹ Federal Government of Germany. *Darstellung der Maßnahmen der Bundesregierung für die Sprachförderung und Integration von Flüchtlingen*. December 2016. 9.

⁶² Ibid.

them for the labour market, vocational training or university studies; there is a variety of courses according to the immigrant's profile.⁶³ Female migrants can attend specific courses aimed at increasing their employment rate, which is currently about five times lower than the one for male migrants.⁶⁴

All asylum seekers and refugees can, in principle, enrol in universities – it does not matter if their decision is pending or they only have a tolerated status.⁶⁵ However, they are confronted with bureaucratic obstacles: As each Federal State is in charge of the higher education system, the recognition procedure for foreign certificates is not always transparent.⁶⁶

SWEDEN

Once they have received a residence permit in Sweden, refugees are entitled to attend “Swedish for immigrants” (SFI) courses organised by their municipality. Asylum seekers waiting for a decision have to resort to courses organised by non-governmental organisations and similar associations.⁶⁷

Recognised refugees can also attend various other courses as part of a two-year integration plan. Apart from the SFI, these include languages courses for specific professional sectors, a civic orientation course and preparation activities for labour market entry, such as internships or subsidised labour market integration programmes. The integration plan offers participants financial incentives above the general social allowances.⁶⁸

Asylum seekers and refugees can study at Swedish universities as long as they meet entry requirements. If they did not bring their academic certificates with them, they may still be allowed to access studies after reviewing their case with the university in question.

⁶³ Ibid., 14-25.

⁶⁴ Ibid., 26.

⁶⁵ ESU - The European Students' Union. *Refugees Welcome?* April 2017. 27.

⁶⁶ ESU - The European Students' Union. *Refugees Welcome?* April 2017. 28.

⁶⁷ "Education." Migrationsverket - Swedish Migration Agency. Accessed April 26, 2017. <https://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/While-you-are-waiting-for-a-decision/Education.html>.

⁶⁸ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 20-21.

Unlike Swedish/EU/EEA nationals and other migrants with residence permits, they have to pay application and tuition fees.⁶⁹

3.5 Employment

GERMANY

In Germany, recognised refugees and those with subsidiary protection can access the labour market without limitations or become autonomous. If the decision is still pending, they can apply for a work permit three months after their asylum request. The employment agency, which needs to approve the permit, conducts a ‘priority review’ to ensure that the employment of the immigrant does not have “disadvantageous” effects on the labour market, and that there are no privileged citizens (German or EU citizens or other privileged immigrants) to fill the vacancy in question. The priority review can prohibit employment of asylum seekers in individual cases, but also for whole branches or professions.⁷⁰ In July 2016, however, the government decided to suspend the priority review in areas whose unemployment rate is below the average. The suspension lasts for three years and is expected to remove one of the biggest obstacles of labour market access for asylum seekers and refugees.⁷¹

Asylum seekers who are obliged to stay at an initial reception centre (for a maximum of six months, see “Accommodation and financial allowances”) are not allowed to work during that period. As a result, asylum seekers from ‘safe countries of origin’ are generally barred from working as they have to stay at these centres during the whole procedure.⁷²

⁶⁹ "Higher education studies." Studera.nu. Accessed May 3, 2017. <http://www.studera.nu/startpage/road-to-studies/information-for-asylum-seekers/higher-education-studies/>.

⁷⁰ "FAQ: Zugang zum Arbeitsmarkt für geflüchtete Menschen." BAMF - Bundesamt für Migration und Flüchtlinge. Accessed May 25, 2017. <http://www.bamf.de/DE/Infothek/FragenAntworten/ZugangArbeitFluechtlinge/zugang-arbeit-fluechtlinge-node.html>.

⁷¹ "Erleichterter Arbeitsmarktzugang für Flüchtlinge." BMAS – Bundesministerium für Arbeit und Soziales. August 5, 2016. <http://www.bmas.de/DE/Presse/Pressemitteilungen/2016/erleichterter-arbeitsmarktzugang-fluechtlinge.html>.

⁷² "FAQ: Zugang zum Arbeitsmarkt für geflüchtete Menschen." BAMF - Bundesamt für Migration und Flüchtlinge. Accessed May 25, 2017. <http://www.bamf.de/DE/Infothek/FragenAntworten/ZugangArbeitFluechtlinge/zugang-arbeit-fluechtlinge-node.html>.

SWEDEN

In Sweden, asylum seekers do not have to apply for work permits as long as they can establish their identity through valid documents. Their right to work lasts during the whole waiting time for a final decision, including the appeals procedure. There is no labour market test, but asylum seekers can only search for jobs that do not require certified skills.⁷³ Additional barriers may be caused by language requirements and the general unemployment rate in Sweden. Yet, rejected asylum seekers have the opportunity to become a formal labour market migrant if they have worked for six months before the negative decision.⁷⁴ This allows those immigrants who do not qualify for asylum, but whose professional skills are desirable for the Swedish labour market, a perspective to stay.

3.6 Involvement of non-governmental organisations and civil society

GERMANY

Some of the biggest German non-governmental organisations (Amnesty International, Red Cross, Caritas, Pro Asyl, AWO, and several parochial organisations) that work in migration and asylum issues are members of the board of the 'Informationsverbund Asyl & Migration'. This association, which is supported by the United Nations Refugee Agency UNHCR, provides a platform for exchange of information, keeps records of German jurisprudence related to asylum law and publishes a monthly magazine.⁷⁵ It also maintains a database of asylum counselling centres that can be searched by topics, target group (e.g. refugees with disabilities, LGBT refugees, victims of violence, or specific ethnicities), language and location.⁷⁶

Recently, the network of non-governmental organisations has expanded to a great degree. During the mass arrival of asylum seekers in 2015, the number of volunteer workers in

⁷³ "Access to the labour market - Sweden." European Council on Refugees and Exiles. Accessed April 27, 2017. <http://www.asylumineurope.org/reports/country/sweden/reception-conditions/employment-education/access-labour-market>.

⁷⁴ European Council on Refugees and Exiles. *Asylum Information Database - Country Report: Sweden*. 2016 Update. 49-50.

⁷⁵ "About Us." Informationsverbund Asyl und Migration e. V. - Asyl.net. Accessed May 25, 2017. http://www.asyl.net/index.php?id=wir_ueber_uns.

⁷⁶ "Adressen." Informationsverbund Asyl und Migration e. V. - Asyl.net. Accessed May 26, 2017. <https://adressen.asyl.net>.

the refugee relief sector increased by 70% compared to previous years.⁷⁷ Many of them launched spontaneous local initiatives to compensate for institutional shortcomings, e.g. by providing emergency aid to asylum seekers and refugees, accompanying them to authorities, organising language courses or supporting them with formalities and house hunting.⁷⁸ These initiatives are associated on a federal level and represented by federal refugee councils ('Landesflüchtlingsräte'), which inform about counselling services and organise training for volunteers.⁷⁹

SWEDEN

There are many non-governmental organisations and grassroots groups supporting asylum seekers and refugees in Sweden; some of them are associated in the Swedish Network of Refugee Support Groups (FARR). FARR provides advice and courses to social workers, publishes the magazine "Article 14" on refugee issues and organises campaigns to influence asylum policy.⁸⁰

Local groups within FARR and other organisations (e.g. Caritas) provide legal advice mainly to rejected asylum seekers. Several associations also support undocumented migrants with psychological consultation and health care, such as the Asylum Committee, Doctors without Borders and Rosengrenska.⁸¹ As mentioned before, some voluntary groups organise language courses for asylum seekers.

3.7 Strengths and weaknesses

It comes without doubt that the mass arrival of refugees in 2015 confronted the German and Swedish asylum systems with huge difficulties. At peak times, they had to accommodate several thousands of asylum seekers who crossed the borders each day.

⁷⁷ "Immer mehr Menschen engagieren sich für Flüchtlinge." Mediendienst Integration. Accessed May 25, 2017. <https://mediendienst-integration.de/artikel/studie-bim-ehrenamtliche-willkommenskultur-fuer-asylbewerber.html>.

⁷⁸ Ibid.

⁷⁹ "Selbstverständnis der Flüchtlingsräte." Die Landesflüchtlingsräte. Accessed May 28, 2017. <http://www.fluechtlingsrat.de>.

⁸⁰ "About FARR." FARR - Flyktinggruppernas Riksråd. Accessed May 18, 2017. <http://www.farr.se/sv/in-english/information>.

⁸¹ "Links to organisations - Sweden." PICUM - Platform for International Cooperation on Undocumented Migrants. Accessed May 18, 2017. <http://picum.org/en/resources/contacts-of-organisations/links-to-organisations-sweden/>.

Short-term challenges were mainly related to logistics and bureaucracy: Authorities had to ensure the proper registration of each person reaching the territory, process a vast caseload of asylum applications within reasonable time frames and provide adequate material living conditions. As the numbers of arriving migrants dropped in the following year, challenges shifted from emergency aid to long-term integration of those residing in the country. The reaction to the so-called “migration crisis” is therefore useful to analyse particular strengths and weaknesses of the two systems, including their adaptability to situations of mass immigration.

3.7.1 Collective centres: Increased capacities, but obstacles for integration

One of the most visible problems arising in the last two years has been the lack of housing. Both Germany and Sweden resorted to emergency accommodation in gyms, containers and similar shelters to cope with the sharp increase in demand.

In Sweden, the situation was particularly dramatic as there had virtually been no collective accommodation before; the Migration Agency usually rents individual apartments. While this model had worked during decades, it was not sufficiently prepared to deal with the large numbers of asylum seekers that Sweden received in 2015 and 2016. The problem was exacerbated by the general housing market situation in the country, which has seen a shortage of affordable flats for students, pensioners and other population groups with limited financial resources. Asylum seekers compete with these groups in the same housing segment.⁸²

A similar problem exists in Germany, although only recognised refugees can freely search for housing in the location they prefer. A large part of them finds employment or places at universities in bigger towns and cities, which are already suffering from a lack of housing and increasing rents.⁸³ At the same time, thousands of places at collective centres remained vacant: Many smaller municipalities are maintaining completely empty centres due to miscalculations.⁸⁴

⁸² Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 23.

⁸³ Oberhuber, Nadine. "Flüchtlinge: Es wird eng." Zeit Online. April 26, 2016.

⁸⁴ "Hoher Leerstand in Flüchtlingsunterkünften." Tagesschau. February 14, 2017.

Although the objective of the Swedish Migration Agency to provide individual flats has led to struggles in the housing market, the model has considerable advantages for the integration of asylum seekers. Studies have investigated how the type of housing affects the acceptance of asylum seekers by the local population and found that those in individual flats tend to be much more accepted than those in collective centres.⁸⁵ The latter, it is argued, are an easier target for right-wing activism, stigmatise their inhabitants and make it harder for them to interact with local citizens.⁸⁶ In this regard, Sweden strives for high standards: Although the massive increase in asylum seekers has inevitably led to conditions similar to collective housing, the Migration Agency tries to accommodate asylum seekers in individual flats. This enables them to live a relatively normal and self-determined life close to the local population.⁸⁷

In Germany, by contrast, around 60% of asylum seekers live in the unfavourable conditions in collective housing;⁸⁸ 20.000 of them even continue to live in emergency accommodation.⁸⁹

3.7.2 Accelerated procedures: Discrimination of certain groups of asylum seekers

Germany has established an extensive system to separate those asylum seekers with “good prospects” of being granted protection from those who are likely to be rejected. Applicants from ‘safe countries of origin’ (see above “Differential treatment for specific nationalities”) are assigned to an accelerated procedure and face disadvantages from the very start: For example, they have to refute the assumption that they are not persecuted in their country, are obliged to stay at a reception centre for the whole procedure and cannot take up employment during that time. While this system may prove efficient to streamline the large number of asylum procedures, it has been criticised for creating a

⁸⁵ See e.g. Jutta Aumüller, Priska Daphi, and Celine Biesenkamp. *Die Aufnahme von Flüchtlingen in den Bundesländern und Kommunen*. Robert Bosch Foundation. 2015. 61.

⁸⁶ Ibid., 61-63.

⁸⁷ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 22

⁸⁸ "Asylbewerberleistungen - Empfängerinnen und Empfänger nach Bundesländern." Statistisches Bundesamt (Destatis). Accessed April 18, 2017.

https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Soziales/Sozialleistungen/Asylbewerberleistungen/Tabellen/Tabellen_EmpfaengerBL.html.

⁸⁹ Krause. "Zehntausende Flüchtlinge leben noch in Notunterkünften." Spiegel Online. March 01, 2017.

“two-class” right to asylum.⁹⁰ The “desired” asylum seekers receive privileges and support in their integration efforts, whereas the “undesired” applicants are isolated and prepared for a speedy deportation.

Germany maintains a list of ‘safe countries of origin’, which is decided on by the parliament, despite the widespread criticism of this concept.⁹¹ The EU Asylum Procedures Directive allows for such a list, although it only provides for very basic criteria and determines that “*Member States shall lay down in national legislation further rules and modalities*”.⁹² Yet, the recent proposal to add Morocco, Tunisia and Algeria to the list sparked huge controversy. It shows not only the disagreement on the characteristics of ‘safe countries’, but also the politicisation of the concept: The Northern African countries had become discredited in German public as the suspected perpetrators of the Berlin Christmas Market attack and the Cologne New Year’s Eve incidents were Maghrebi immigrants.⁹³ Assigning asylum seekers with these nationalities to accelerated procedures, which allow for a faster rejection and deportation, could be used to demonstrate political initiative and underline the efficiency of the asylum system.

But not only asylum seekers from ‘safe countries of origin’ are affected by the disadvantages of accelerated procedures: They also apply when a person has deliberately destroyed their identity document (see above). As the German non-governmental organisation for asylum issues Pro Asyl argues, the deliberateness is hard to verify, and authorities might arbitrarily assume it for any asylum seeker who is not in possession of their documents.⁹⁴ In principle, a great amount of asylum seekers could be affected by this: It is common that refugees are forced to sell or hand their identity documents to smugglers or accidentally lose them in turbulent situations. According to Pro Asyl, it is

⁹⁰ "Zwei-Klassen-Asylrecht? Abschreckung in 'Besonderen Aufnahmezentren'" Pro Asyl. June 01, 2016. <https://www.proasyl.de/hintergrund/zwei-klassen-asyrecht-abschreckung-in-besonderen-aufnahmezentren>.

⁹¹ See e.g. European Council on Refugees and Exiles. "Safe Countries of Origin": A Safe Concept? AIDA Legal Briefing No. 3. September 2015.

⁹² European Parliament and Council. Directive 2013/32/EU "Asylum Procedures Directive". Para. 42 and 48, Art. 36.

⁹³ Greven, Ludwig. "Maghreb-Staaten: Nur Show um sichere Herkunftsländer." Zeit Online. March 10, 2017.

⁹⁴ "Zwei-Klassen-Asylrecht? Abschreckung in 'Besonderen Aufnahmezentren'" Pro Asyl. June 01, 2016.

therefore not clear how many people get assigned to accelerated procedures and if they are appropriate in each individual case.⁹⁵

By contrast, Sweden has neither an official list of ‘safe countries of origin’ nor an express legal provision for accelerated procedures. Yet, applications considered as “manifestly unfounded” are dealt with in an accelerated procedure and can result in an immediate expulsion.⁹⁶ Although this classification should, according to international and domestic asylum law, always and exclusively be based on individual circumstances of the case, the Migration Agency has generally applied it to certain nationalities. In current practice, all applications from Western Balkan are treated as “manifestly unfounded” (see above). Asylum seekers from Kosovo, Albania, Serbia, Macedonia and Bosnia-Herzegovina have recently come to Sweden in the highest numbers since the Balkan wars in the 1990s, but face an almost zero percent chance of recognition.⁹⁷ Furthermore, their appeals are rarely considered by the Swedish migration courts.⁹⁸

The practice of grouping asylum seekers prior to the examination of their case, usually on grounds of their nationality, has certainly resulted from the large numbers of migrants that Germany and Sweden received in the last years and the pressure to streamline asylum procedures. As seen in the debate about ‘safe countries’ in Germany, it can also be related to public and political circumstances. Yet, the practice is controversial for ethical and practical reasons and from the viewpoint of international law: Since the 1951 Refugee Convention requires an individual and personal assessment of claims as the very basis of international protection, it can hardly be reconciled with the safety assessment of a country as a whole.⁹⁹ A country might be safe and free of persecution for the majority, but not necessarily for women, ethnic or religious minorities or LGBT people. Although both German and Swedish law demand that every individual asylum claim is duly assessed despite the classification, it raises questions as to the fairness of their asylum systems.

⁹⁵ Ibid.

⁹⁶ "Accelerated procedure - Sweden." European Council on Refugees and Exiles.

⁹⁷ "Sweden Closes Doors for Balkan Asylum Seekers." Independent.mk. January 02, 2015.

⁹⁸ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 15.

⁹⁹ European Council on Refugees and Exiles. *"Safe Countries of Origin": A Safe Concept? AIDA Legal Briefing No. 3.* September 2015. 4.

3.7.3 Health care: Bureaucratic hurdles in Germany

In both countries, health care is generally limited to acute illness, vaccinations, emergencies and, according to German law, cases of “pain”.

The German Asylum Seekers’ Benefits Act is imprecise and leaves considerable scope to interpretation. It is not always clear what conditions qualify for treatment; for example, chronic diseases are not acute, although they can cause pain and subsequent diseases when left untreated. The law states that “*additional benefits can be granted if they are indispensable to safeguard (...) health*”¹⁰⁰ – a clause that many organisations have criticised as an “All things optional, nothing is a must” provision. Furthermore, as asylum seekers normally have to ask local authorities for permission to see a doctor, the urgency of the treatment is assessed by non-specialised personnel. These are usually social workers at the social assistance office.¹⁰¹ The Federal Medical Association already criticised years ago that this system could leave many conditions untreated and cause even higher therapy costs for subsequent diseases.¹⁰²

Getting appropriate medical treatment is complicated by the fact that each municipality can make own regulations on health care for asylum seekers.¹⁰³ As a result, the treatments accessible to them differ heavily between Federal States: In some States, such as Saxony, asylum seekers need to ask for permission for virtually every examination, while others grant them an insurance card with almost all the benefits of the general compulsory health insurance. The States that introduced this card (see above “Health care”) have had good experiences with the system: It has not only reduced discriminatory barriers for asylum seekers, but also bureaucratic expenses of the local authorities and now serves as a best practice for other Federal States. However, due to the disagreements about funding it is not clear if these reforms will advance further.¹⁰⁴ As long as the card is not introduced all over Germany, health care tends to be a weakness in the asylum system.

¹⁰⁰ German Federal Ministry of Justice and Consumer Protection. *Asylum Seekers’ Benefits Act*. Para. 6.

¹⁰¹ Berres, Irene. "So werden Flüchtlinge medizinisch versorgt." Spiegel Online. March 22, 2016.

¹⁰² "Stellungnahme “Versorgung von nicht regulär krankenversicherten Patienten mit Migrationshintergrund“." Deutsches Ärzteblatt. May 03, 2013.

¹⁰³ Berres, Irene. "So werden Flüchtlinge medizinisch versorgt." Spiegel Online. March 22, 2016.

¹⁰⁴ "Mehr Flüchtlinge erhalten Gesundheitskarte." Deutsches Ärzteblatt. January 23, 2017.

In Sweden, the process for obtaining medical care is much more straightforward. Asylum seekers can directly approach a care centre with the temporary ID document they have received at the time of their application (the so-called LMA card), without the need for permission. A negative point is the general need to pay contributions for appointments, but hospital care, preventive paediatric, maternity, prenatal and childbirth care or abortions are free of charge.¹⁰⁵ Moreover, health care is free for anyone under the age of 18, and in many counties and regions the age limit is even higher.

3.7.4 Societal integration

Sweden aims to enable asylum seekers to lead a life as normal and independent as possible and can well be regarded as a role model for their integration. As mentioned before, their contact with the local population is facilitated by the fact that they are usually placed in individual flats. They have their allowances made available on a banking chip card, enabling them to choose and purchase goods themselves rather than just passively receiving them in kind. Schooling of children can start within a month and is supported by organised bussing and flexible adaptation to their needs, e.g. with classes in their mother tongues or bilingual classes. Unlike in Germany and other EU countries, access to the labour market is not delayed by a waiting time as long as asylum seekers can establish their identity. Given that the EU Reception Conditions Directive prescribes a maximum waiting time of nine months after the application, the Swedish asylum system again sets high standards for the integration of asylum seekers. A further plus is the possibility of formal labour migration if the asylum request is rejected.

As soon as they receive a positive decision, recognised refugees are cited by the employment agency to develop a two-year integration plan tailored to their skills and needs (see “Access to education for adults”). The plan may include various kinds of language courses and internships according to the refugee’s individual employment history, profession or, if they intend to start a university degree, academic interests.¹⁰⁶ The Swedish government encourages participation in the integration plan with financial incentives and thus creates a win-win approach: While refugees receive higher

¹⁰⁵ "Healthcare in Sweden for asylum-seekers, people with no papers and people in hiding." 1177 Vårdguiden. Accessed May 17, 2017. <https://www.1177.se/Other-languages/Engelska/Regler-och-rattigheter/Vard-i-Sverige-om-man-ar-asylsokande-gomd-eller-papperslos/>.

¹⁰⁶ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 18-19.

allowances and the opportunity to find long-term employment, the government keeps track of their skills and integration efforts and discourages them from engaging in the black market.

However, it should be noted that these standards are not always met by reality. The majority of asylum seekers and refugees who have arrived since 2015 are struggling to find a job; according to authorities, only 0.3% had taken up employment until May 2016.¹⁰⁷ This issue is mainly owed to the lack of low-skilled jobs and the divide in qualifications between refugees and the highly-educated Swedish population.¹⁰⁸ Even the effectiveness of the State-supported integration plan is limited e.g. by the geographical remoteness of refugee housing. Yet, a recent law intends to adapt refugee allocation to local labour market conditions.¹⁰⁹

Germany has long lacked a systematic and coherent approach to integration of asylum seekers and refugees. The integration law from July 2016 answered the urgent calls for reforms, but left many asylum seekers and civil society organisations dissatisfied. On the one hand, the law includes measures specifically to facilitate labour market access: It guarantees asylum seekers a residence permit for the whole duration of their vocational training and partially removes the priority review (see “Employment”). On the other hand, the law has been marked as discriminatory and insufficient for effective integration. It consolidates the distinction between asylum seekers with “high” and “low” prospects of being allowed to stay – the latter are largely left behind in the integration process due to their nationality.¹¹⁰ Asylum seekers are furthermore obliged to attend language courses and similar measures as they could otherwise see their benefits cut. Pro Asyl argues that the law focusses on obligations and sanctions, implying that asylum seekers are unwilling to integrate, rather than improving the integration measures themselves. For example, authorities have been unable to extend the offer of language courses in spite of the increasing demand.¹¹¹ The organisation also criticises the obligation to live in a

¹⁰⁷ Fallenius, Karin. "162.000 kom till Sverige – 500 fick jobb." SVT Nyheter. May 31, 2016.

¹⁰⁸ "Seeking asylum - and jobs." The Economist. November 05, 2016.

¹⁰⁹ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 22.

¹¹⁰ "Integrationsgesetz setzt auf Fördern und Fordern." Federal Government of Germany. August 8, 2016. <https://www.bundesregierung.de/Content/DE/Artikel/2016/08/2016-08-05-integrationsgesetz.html>.

¹¹¹ Pro Asyl. *Stellungnahme zum Referentenentwurf des Bundesministeriums für Arbeit und Soziales und des Bundesministeriums des Innern*. May 19, 2016. 2.

determined municipality.¹¹² This measure aims to avoid the accumulation of asylum seekers and refugees in certain areas, but may hinder effective access to the labour market and violate the right of refugees to freedom of movement according to the EU Qualifications Directive.¹¹³

Germany still lacks a common and systematic assessment of asylum seekers' skills with the aim of improving their labour market integration. A pilot project called "Early Intervention", launched in 2014 by the Federal Employment Agency and the Federal Office for Migration and Refugees (BAMF), has pursued this objective: Staff interviews asylum seekers at reception facilities to assess competencies and qualifications based on self-declarations. They are then sent to an employment office, where an individual employment strategy is developed and matched with the needs of local employers.¹¹⁴ The pilot was overall successful, but an evaluation by the Institute for Employment Research criticises that asylum seekers are sent to various public entities during "Early Intervention". The fact that each of them is embedded in different legal, financial and organisational frameworks creates huge bureaucratic hurdles for a coherent integration strategy.¹¹⁵

The lack of official language courses, which has only partially been addressed by the recent integration law, has far-reaching implications: Without sufficient knowledge of German, asylum seekers are usually blocked from taking up employment or university studies. Measures supporting integration tend to be available only to certain groups of asylum seekers and are not embedded in a consistent, nationwide strategy. Civil society organisations endeavour to compensate for institutional shortcomings, especially by organising language courses, counselling and activities for cultural exchange, but many of their demands have not been answered yet by the government.

The Swedish system enables asylum seekers to live a relatively self-determined life and offers recognised refugees a long-term integration plan with incentives. By contrast,

¹¹² Ibid., 4.

¹¹³ European Parliament and Council. *Directive 2011/95/EU "Qualification Directive"*. Art. 33.

¹¹⁴ Ulrike Büschel, Volker Daumann, Martin Dietz, et al. *Abschlussbericht Modellprojekt Early Intervention - Frühzeitige Arbeitsmarktintegration von Asylbewerbern und Asylbewerberinnen*.

Institute for Employment Research. October 2015. 4.

¹¹⁵ Ibid., 20-22.

Germany confronts them with extensive bureaucratic obstacles and does not seem to rely on their effort and willingness to integrate – many governmental measures focus on obligations and sanctions rather than on incentives and individual support.

3.8 Reforms and political context

Sweden's asylum system may appear relatively well-organised, fair and even generous, although it should be noted that the country has considerably downgraded its own standards over the last years. The massive influx of asylum seekers in 2015-2016 was met by an overall welcoming society, but also fuelled a rise of nationalistic discourse in politics and media.¹¹⁶ In a country that had traditionally emphasised its openness and empathy towards asylum seekers and granted them one of the highest protection rates in Europe, fears over the sudden increase of migrants led to a political turnaround: Permanent residence permits were reduced to temporary permits, border checks were temporarily reintroduced and many rights, e.g. regarding family reunification or the treatment of unaccompanied minors, were reduced to the minimum required by EU law.¹¹⁷ Within a few months, the Swedish asylum system managed to mitigate the burden on its authorities and significantly decreased arrival numbers, but also lost a part of its exceptional reputation.

The Swedish centre-left government under Prime Minister Stefan Löfven insists that these are only temporary measures to relieve the system, and that the country will lower restrictions as soon as the situation is under control again.¹¹⁸ However, despite the sharp decline in asylum applications – weekly numbers in March 2016 were only 5% of those in November 2015¹¹⁹ – the government maintained its stance and even decided to cut subsidies.¹²⁰

Germany had tightened its asylum laws much earlier: In 1992, the country experienced a record number in asylum applications that was only surpassed in 2015 and 2016.¹²¹

¹¹⁶ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 20-21.

¹¹⁷ Parusel, Bernd. "Sweden's U-turn on asylum." *Forced Migration Review*. University of Oxford. No. 52, May 2016. 1.

¹¹⁸ *Ibid.*, 2.

¹¹⁹ *Ibid.*

¹²⁰ "Denmark, Sweden toughen up asylum rules despite falling numbers." Thomson Reuters. August 30, 2016..

¹²¹ BAMF – Bundesamt für Migration und Flüchtlinge. *Schlüsselzahlen Asyl 2016*.

Applicants mainly came from Romania and Yugoslavia. In the same year and due to the rising public pressure, the government decided on the so-called “asylum compromise”. This restrictive reform introduced the concepts of ‘safe countries of origin’ and ‘safe third countries’, provided for accelerated procedures and created a downgraded social benefits system particularly for asylum seekers.¹²² The reforms seemed effective as the numbers of asylum applications drastically dropped in the following years.

In the summer of 2015, when Germany once again faced a massive wave of immigrants, the conservative chancellor Angela Merkel reacted with the famous statement “*We can do it*” – a clear expression of the country’s open and welcoming attitude towards the refugees. This statement was viewed by many as a sign of leadership and humanity, while others – even within her own party – accused her of losing control over the refugee situation. The controversy favoured the rise of the right-wing populist party AfD (“Alternative for Germany”), which greatly benefitted from public fears and insecurities and could become one of the major parties in the upcoming general elections in September 2017.

Just like in Sweden, the German asylum system had difficulties to adapt to the suddenly increased pressure. But while the Swedish Migration Agency quickly hired and trained new employees, the German BAMF showed less flexibility; around 80% of new staff did not receive proper training.¹²³ Mismanagement at the agency resulted in a major scandal when the case of Franco A. was brought to light in April 2017: The German soldier pretended to be a Syrian refugee and was indeed granted asylum by the BAMF. He supposedly planned a terroristic attack that should appear to be committed by a refugee and heat up public debate. Investigations are still running, but have already revealed blatant mistakes on the part of the BAMF and cast a shadow over the reliability of the national asylum system.¹²⁴ Institutional shortcomings are yet to be addressed.

¹²² "Asylrecht, Flüchtlingspolitik und humanitäre Zuwanderung in der Bundesrepublik." Bundeszentrale für politische Bildung. May 29, 2015.

¹²³ "Viele Bamf-Entscheider offenbar unzureichend qualifiziert." Zeit Online. June 03, 2017.

¹²⁴ Ibid.

3.9 Sweden and Germany in the CEAS

Sweden has long supported the harmonisation of European asylum policies and the development of the CEAS, although it considers that a Member State should be allowed to have more favourable standards.¹²⁵ In order to relieve pressure on transit countries, it has advocated a more even distribution of asylum seekers across EU Member States and a greater emphasis on resettlement programmes from third countries.¹²⁶ One of its priorities is the establishment of legal and safe routes into the EU.¹²⁷ The Swedish government has led the way by taking in approximately 1,900 people annually through resettlement programmes during several decades.¹²⁸

In the face of growing migratory flows in recent years, Sweden supported the European transit countries Greece and Italy with staff for on-site processing centres. It also augmented its calls for other EU countries to take more responsibility. Sweden has endorsed the Dublin relocation programme, but at the same time refused to admit more asylum seekers itself: The government argued that it had already received a major share and should be able to relocate some of its refugees to other countries.¹²⁹

Sweden has indeed initiated a rather high number of Dublin procedures as it is not the first country of entry for most asylum seekers. In 2016, it issued 12,118 transfer requests to other EU countries, of which only 5,244 actually took place. 3,668 of the transfers were destined for Germany, 292 for Italy. In turn, only 3,306 transfers were admitted to Sweden.¹³⁰

Germany already feared in the early 1990s that it could become a primary destination country for asylum seekers and economic migrants due to its high protection and reception standards. It not only introduced accelerated procedures and the concepts of ‘safe countries of origin’ and ‘safe third countries’ in its national law (see “Reforms and political context”), but advocated their implementation on the EU level.¹³¹ Germany also

¹²⁵ Swedish Ministry of Justice. *Sweden's migration and asylum policy*. February 2017. 2.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Parusel. "Sweden's Asylum Procedures". Bertelsmann Foundation. 5.

¹²⁹ Ibid.

¹³⁰ "Dublin - Sweden." European Council on Refugees and Exiles. Accessed May 26, 2017.

<http://www.asylumineurope.org/reports/country/sweden/asylum-procedure/procedures/dublin>.

¹³¹ Bundeszentrale für politische Bildung. *Deutsche Asylpolitik und EU-Flüchtlingsschutz im Rahmen des Gemeinsamen Europäischen Asylsystems (GEAS)*. Focus Migration. No. 29, May 2015.

endorsed the Dublin Regulation from the very start, but is sceptical about the capacity of border countries like Greece and Italy to ensure EU standards of protection. It has therefore favoured the extension of the EU-coordinated resettlement programmes, which directly relocate people from crisis-ridden countries.¹³²

Since Germany is, like Sweden, surrounded by ‘safe third countries’, it has also initiated a high number of Dublin procedures: It issued 55,690 transfer requests in 2016, of which only 3,368 took place – mainly to Italy.¹³³ In turn, Germany admitted 12,091 of 31,523 transfers.

6-7.

¹³² Ibid., 13.

¹³³ "Dublin - Germany." European Council on Refugees and Exiles. Accessed May 25, 2017. <http://www.asylumineurope.org/reports/country/germany/asylum-procedure/procedures/dublin>.

4 Conclusion: Current and future prospects of common European asylum policies

Germany and Sweden have been among the top EU countries in receiving asylum seekers in the last years and repeatedly complain about the lack of solidarity of other EU Member States. In order to halt the flow of migrants, both countries have taken unilateral measures that also affected the wider European area. Germany reintroduced controls at its land border with Austria in September 2015; Sweden did the same at its ferry ports in November 2015. These actions dealt a blow to free movement within the Schengen area and could even jeopardise the agreement. Sweden's move triggered similar reactions in Scandinavia as Denmark and Norway set up border controls as well in the following weeks.¹³⁴ Instead of relieving the pressure on Sweden, its neighbouring countries tightened their own protection against the migration flow: All of them restricted family reunification, cut benefits and introduced shorter residence permits.¹³⁵ These reactions raise the question as to whether free movement in the EU and Schengen area is compatible with the challenges of a refugee crisis.

The Dublin system has been largely regarded as a failure due to widespread non-compliance. Germany and Sweden are allies in advocating a binding quota system and have suggested financial compensation from EU funds for those States that are willing to receive asylum seekers.¹³⁶ The 2016 EU Commission proposal for a recast Dublin Regulation, called 'Dublin IV', partially takes up these demands: It provides for a corrective allocation mechanism if a country receives a disproportionate number of asylum applications.¹³⁷ If it exceeds 150% of the reference key, which is calculated based on population size and GDP, all further applicants are automatically reallocated to another Member State. The responsible State can temporarily refuse to participate in the reallocation scheme by paying a 'solidarity contribution' of €250,000 per applicant.¹³⁸

¹³⁴ European Commission. *Member States' notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 et seq. of the Schengen Borders Code.*

¹³⁵ Tobias Etzold. "Refugee policy in Scandinavia: paradigm shift in liberal Sweden?" Heinrich Böll Foundation. June 22, 2016.

¹³⁶ *Ibid.*

¹³⁷ European Commission. *COM(2016) 270 Proposal.* May 4, 2016. 18.

¹³⁸ *Ibid.*, 19.

It is questionable whether these measures would effectively improve solidarity and make EU Member States more prepared for a migration crisis. ECRE criticises that it offers States a ‘buy-out’ option instead of obliging them to engage with the issue; those with sufficient financial means could therefore escape their responsibility under the CEAS.¹³⁹

Furthermore, the proposal does not ease the pressure on external border States like Greece and Italy. It obliges them to check if the application is admissible and directly return applicants in case they come from a ‘first country of asylum’ (where they should have applied instead) or a ‘safe third country’.¹⁴⁰ This would be problematic for various reasons: First, it could consolidate the EU-Turkey agreement on forced refugee returns and fuel the debate on whether Turkey can be regarded as a ‘safe third country’. Secondly, Greek and Italian asylum authorities are already struggling to provide adequate asylum procedures and reception conditions. In a 2011 case involving Greece, the European Court of Human Rights bemoaned “*major shortcomings in access to the asylum procedure and in the examination of applications for asylum*”¹⁴¹ which have only deteriorated due to the migration wave. In addition, it described the living conditions for asylum seekers in Greece as “*degrading*” and prohibited the transfer to a country with such “*systemic deficiencies*”.¹⁴²

As a consequence, a number of EU countries, including Germany and Sweden, suspended Dublin transfers to Greece.¹⁴³ Similar concerns regarding reception conditions were raised about Italy, but courts have so far denied “*systemic deficiencies*” in the Italian system.¹⁴⁴ Either way, it is clear that conditions for asylum seekers are far from equal across EU countries; not even the compliance with CEAS minimum standards can be guaranteed.

Differences between EU countries also become strikingly obvious with a look at recognition rates: For Turkish nationals, they ranged from 0% (Sweden, Netherlands and

¹³⁹ European Council on Refugees and Exiles. *ECRE Comments on the Commission Proposal for a Dublin IV Regulation*. October 2016. 37.

¹⁴⁰ European Commission. *COM(2016) 270 Proposal*. May 4, 2016. 15.

¹⁴¹ European Court of Human Rights. *M.S.S. v Belgium and Greece [GC], Application No. 30696/09*.

¹⁴² *Ibid.*

¹⁴³ Madeline Garlick and Susan Fratzke. "EU Dublin Asylum System Faces Uncertain Future after Ruling in Afghan Family's Case." Migration Policy Institute. April 15, 2015.

¹⁴⁴ Bundeszentrale für politische Bildung. *Deutsche Asylpolitik und EU-Flüchtlingsschutz im Rahmen des Gemeinsamen Europäischen Asylsystems (GEAS)*. Focus Migration. No. 29, May 2015. 9.

Cyprus) to 75% (Italy) in the first quarter of 2015.¹⁴⁵ Similar fluctuations can be observed e.g. for Albanian nationals.¹⁴⁶ This is particularly interesting as both countries have been proposed for a common EU list of ‘safe countries of origin’, despite the apparent disagreement about their safety. And although the classification of Turkey as a ‘safe third country’ is related to the safety of foreigners, not of its nationals, the diverging recognition rates nevertheless cast doubts on Turkey’s safety as a whole – and on the legality of the EU-Turkey agreement.

CEAS reforms proposed by the EU Commission would modify not only the Dublin system, but intend to streamline asylum procedures across the EU. Yet, they neither strengthen individual refugees’ rights nor create legal routes into the EU, as it has been demanded. They do not even advance the actual harmonisation of national asylum systems, but focus on avoiding secondary movements and on penalising them.¹⁴⁷ The EU, so far, does not seem to find a credible response to the migratory challenges posed in recent years. Rather than improving EU-wide solidarity, States will therefore be likely to resort to unilateral measures and rely only on themselves in the face of a crisis. Tendencies for this can clearly be seen in the analysis of Sweden and Germany – two countries which have traditionally been generous to asylum seekers, but became much tougher in the last years.

¹⁴⁵ European Council on Refugees and Exiles. *"Safe Countries of Origin": A Safe Concept? AIDA Legal Briefing No. 3*. September 2015. 8.

¹⁴⁶ *Ibid.*, 7.

¹⁴⁷ Comisión Española de Ayuda al Refugiado. *Five Critical Points in the Proposed Reform of the Common European Asylum System*. 6-7.

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Annex I

	Time limit for regular procedures (asylum decision at first instance)	Time limits for lodging appeals	Legal assistance	Formal access to labour market (max. time limit after filing asylum claim)	Health care	Education	Detention (max. time limit)	Access to detention centres	Responsible authority: Refugee status determination	Responsible authority: First appeal	Responsible authorities: Reception conditions
Austria	180 days	14 days	Legal advice provided	3 months	Limited access (full health insurance but delays in registration due to influx of migrants)	Mandatory schooling for 9 years (usually age 15); restricted access to vocational training	10 months	Full access for UNHCR and legal representatives; limited access for family members and NGOs	Federal Agency for Immigration and Asylum	Federal Administrative Court	Department responsible for administration of basic care in each federal province
Belgium	180 days	30 days	Legal advice and representation provided	4 months	Full access	Mandatory schooling from age 6-18; right to attend professional training and education courses	8 months	Full access for UNHCR and legal representatives; limited access for family members and NGOs	Office of the Commissioner General for Refugees and Stateless Persons (CGRS)	Council for Alien Law Litigation (CALL)	Collective and individual reception facilities managed by Fedasil (competence of Secretary of State for Migration and Integration)
Bulgaria	180 days	14 days	Legal advice and representation provided	3 months	Limited access (due to general deterioration of the system)	Full legal access to schooling and vocational training without age limit	18 months	Full access for UNHCR, legal representatives and NGOs; limited access for family members	State Agency for Refugees (SAR)	Regional Administrative Court	Collective centres managed by State Agency for Refugees
Croatia	180 days	30 days	Legal advice provided	9 months	Limited access (emergency health care and essential treatment of illnesses and serious mental disorders; major deficiencies; supported by NGOs)	Legal right to primary and secondary education up to age 18	6 months	Full access for UNHCR, legal representatives, family members and NGOs	Asylum Department, Ministry of Interior	Administrative Court	Collective centres managed by Ministry of Interior
Cyprus	180 days	20 days	Legal advice and representation provided	6 months	Limited access (emergency health care and essential treatment of illnesses and serious mental disorders)	Legal right to primary and secondary education	18 months	Full access for legal representatives; limited access for UNHCR, family members and NGOs	Asylum Service	Separate authorities for administrative and judicial appeal	Collective centre managed by Asylum Service, supported by local volunteer organisation; No standards for private accommodation

France	180 days	30 days	Legal advice provided	9 months	Limited access (only guaranteed until the end of the validity of the asylum claim certification)	Mandatory schooling from age 6-16; generally no vocational training foreseen for adults	1.5 months	Full access for legal representatives and NGOs; limited access for family members; no access for UNHCR	Office for the Protection of Refugees and Stateless Persons (OFPRA)	National Court of Asylum (CNDA)	Collective centres managed by subcontracted semi-public companies or NGOs, funded by the State
Germany	-	14 days	No legal advice/representation in first instance procedures	3 months	Limited access (only in cases of "acute diseases or pain" and of pregnancy)	Mandatory schooling depending on Federal State law; access to vocational training	18 months	Full access for UNHCR and legal representatives; limited access for family members and NGOs	Federal Office for Migration and Refugees (BAMF)	Local Administrative Court	Initial reception centres: Federal State; Collective centres: managed by local governments, NGOs or facility management companies
Greece	180 days	30 days	No legal advice/representation in first instance procedures	Conditional on delivery of temporary work permit	Full access	Legal right to primary and secondary education without age limit; access to vocational training	18 months	Full access for UNHCR, legal representatives, family members and NGOs	Asylum Service	Appeals Committees	Collective centres mainly managed by NGOs; many temporary centres running without ministerial decision and legal basis
Hungary	60 days	8 days	Legal advice and representation provided	9 months	Limited access (lack of specialised medical service)	Mandatory schooling until age 16; no education above age 16 until reception of protection status	6 months	Full access for UNHCR, legal representatives and family members; limited access for NGOs	Immigration and Asylum Office (IAO)	Regional Administrative and Labour Court	Collective centres managed by Immigration and Asylum Office; NGOs provide supplementary services
Ireland	180 days	15 working days	Legal advice provided	No formal access	Full access	Legal access to primary and secondary education; economic barriers to access to universities and vocational training	18 months	Full access for UNHCR, legal representatives, family members and NGOs	International Protection Office (IPO)	International Protection Appeals Tribunal (IPAT)	Collective centres managed by private agencies, contracted by Reception and Integration Agency
Italy	33 days	30 days	No legal advice/representation in first instance procedures	2 months	Full access	Mandatory schooling until age 16	12 months	Limited access for UNHCR, legal representatives, family members and NGOs	Territorial Commissions for the Recognition of International Protection	Civil Court	Collective centres managed by local public entities, municipalities or subcontracted private bodies

Malta	180 days	14 days	No legal advice/representation in first instance procedures	9 months	Access not guaranteed by law	Legal access to primary and secondary education; offer of exemption of fees for universities and vocational training	12 months	Full access for UNHCR, legal representatives and NGOs; no access for family members	Office of the Refugee Commissioner	Refugee Appeals Board	Most collective centres managed by Agency for the Welfare of Asylum Seekers, some by NGOs
Netherlands	8 days	Short procedure: 7 days Extended procedure: 30 days	Legal advice and representation provided	6 months	Limited access (in some cases only for medical emergencies)	Mandatory school until age 18; potential economic barriers to access to vocational training	-	Full access for UNHCR, legal representatives, family members and NGOs	Immigration and Naturalisation Service (INS)	Regional Court	Collective centres managed by Central Agency for the Reception of Asylum Seekers
Poland	180 days	14 calendar days	Legal advice provided	6 months	Limited access (language barriers and remote location of reception centres)	Mandatory schooling until age 18; no access to vocational training	6 months	Full access for UNHCR, legal representatives and NGOs; limited access for family members	Head of the Office for Foreigners	Refugee Board	Head of Office for Foreigners responsible for management of centres; sometimes delegated to private contractors
Spain	180 days	30 days (OAR) 60 days (High National Court)	Legal advice and representation provided	6 months	Full access	Mandatory schooling from age 6-16	2 months	Limited access for UNHCR, legal representatives, family members and NGOs	Inter-Ministerial Commission on Asylum (CIAR)	Separate authorities for administrative and judicial appeal	Two networks of collective centres: one managed by Ministry of Employment and Social Services, one managed by NGOs (subcontracted by the Ministry)
Sweden	-	21 days	Legal advice and representation provided	No time limit	Limited access (fees for health and dental care)	Legal right to primary and secondary education (up to age 18) and vocational training	12 months	Full access for UNHCR, legal representatives, family members and NGOs	Migration Agency	Migration Court	Collective centres and flats managed by Migration Agency
United Kingdom	-	14 days	Legal advice provided	12 months	Limited access (charges, lack of information and support)	Mandatory schooling from age 5-16; no legal bars, but economic barriers to higher education (e.g. overseas fees)	-	Limited access for UNHCR, legal representatives, family members and NGOs	Home Office: UK Visas and Immigration (UKVI)	First Tier Tribunal, Immigration and Asylum Chamber (FTT (IAC))	Collective centres and flats managed by private companies, contracted by Home Office

Source: Compilation based on the data provided by European Council on Refugees and Exiles, Asylum Information Database (<http://www.asylumineurope.org>)