



**THE CHALLENGES
OF MIGRATION,
INTEGRATION AND
EXCLUSION**

**WE MANAGED –
AND WE CHANGED
IN THE PROCESS**

Selected conclusions of the study of the
Max Planck Research Initiative “Challenges
of Migration, Integration, and Exclusion” on
the effects of the “long summer of migration”

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1. Executive Summary

The Max Planck Society Research Network, *Challenges of Migration, Integration and Exclusion (WiMi)*, is a collaborative effort of six Max Planck Institutes representing different disciplines to carry out a research study to assess the consequences of the “long summer of migration”. This research study concludes that the challenge of admitting a large number of refugees at a rapid rate has largely been overcome and, in turn, sparked many more changes. The efforts to register, admit, and accommodate around one million newcomers in a very short span of time were successful to a large extent. This not only proved the effectiveness of the state structures, but in some cases, also their ability to institute reforms and learn from their experiences. This, however, is countered by the – partly unintended – exclusionary effects of migration policies at the national and European levels as well as those resulting from the legal changes and the legal and administrative bureaucracy at various levels. Decisions directly affecting individuals and collectives are often not very easily understood by those seeking protection, so that they seem somewhat arbitrary, giving rise to uncertainty and a greater lack of participation.

The MPI Research Network was founded on the initiative of the President of the Max Planck Society, Prof Dr Martin Stratmann, who suggested bundling the Max Planck Society's expertise in migration research in view of the great significance of the events of 2015/16 for the development and consolidation of refugee studies as a veritable academic discipline, an emergent field in Germany.

The WiMi Research Network was led by Prof Dr Marie-Claire Foblets (MPI for Social Anthropology) and Prof Dr Steven Vertovec (MPI for Research on Multi-Religious and Multi-Ethnic Societies) over the span of three years (2017-2020), along with Prof Dr Ayelet Shachar (MPI for Research on Multi-Religious and Multi-Ethnic Societies), who was involved in the founding phase as the co-founder of the initiative. The project coordinator was Dr Zeynep Yanasmayan (MPI for Social Anthropology). The Max Planck Institutes in Berlin, Heidelberg, Munich, and Rostock also partook in this research.

Selected conclusions reached at various levels are presented below:

- Since 2015, European policy-making has increasingly relied on political instruments, such as informal agreements that come with risks and opportunities and, in particular, serve the purpose of limiting the influx of migrants.
- The EU hotspots in the Mediterranean region, initially developed as instruments of short-term aid for the countries of first entry, are now locations characterized by immigration restrictions and long-term stays.
- At the European level, there is no clarity on how to handle situations where people lack access to international protection but also cannot be deported for legal or factual reasons. European asylum law has an intended gap in that regard that can or must be filled by the national institutions. Some conclusions of the WiMi study on the impact of residence status provide important points of departure for a more in-depth research
- The German response to the question of *Duldung* (tolerated stay or temporary suspension of deportation) as “non-status” should be conveyed and structured in a way to build a better understanding of the situation among those affected and reduce their perception of threat, especially if it turns out that their deportation is legally prohibited.



- German legislators responded with "hyperactive legislation". Frequent legislative changes since 2015 have resulted in changes to the right of residence and asylum to such an extent that a fundamental reform of the legal framework is necessary to make the guidelines more uniform and transparent for the administration. It is also of critical importance to reduce incoherencies and unintended exclusionary effects. At the same time, contradictions and subjective evaluations regarding what can or should be considered success and failure cannot be completely avoided.
- While the WiMi study also sheds light on structural deficits at all levels, the administration as a whole has often demonstrated its ability, even under these exceptional circumstances, to react in a goal-oriented manner, to adapt if necessary, and to fulfil its tasks.
- A significant part of the rapid immigration in 2015/16 was managed at the local level: Faced with considerable challenges during this period, municipalities were often able to demonstrate their efficiency. In dealing with the rapid influx of refugees, however, in some cases, they also resorted to closure and externalization. Cooperation with civil society at the local level was also crucial in surmounting the challenges.
- The WiMi study shows in particular that cities have the capacity not only to respond ad hoc to rapid migration movements but also to develop strategies for dealing with anticipated challenges and to adapt structures accordingly.
- Asylum seekers themselves often had to endure problems directly relating to administrative processes and decisions, which often seemed incomprehensible and arbitrary to them.
- Welfare-state actors had limited success in their efforts to grasp the situation of those affected and in adequately responding to their needs. More flexibility and intercultural competence in the administration, however, could enhance the opportunities and efforts to participate.

All in all, calling the situation following the events of 2015 a "crisis" cannot be justified as the state was successfully able to resolve the issues that were identified in cooperation with civil society actors. However, even as challenges were being overcome, the fault lines of social conflict in relation to migration and diversity became ever more clearly visible as the exclusionary processes outlined above simultaneously began to come to the fore. The "long summer of migration" and its consequences are regarded here not just as a moment of social and political opening, nor solely as part of a closure, but on all levels as a complex web of both trends.

With a view to the future, it appears central that policies in the area of migration, asylum and admission reflect the complexity of migration and admission processes as well as the conditions affecting the legal and administrative framework and possible changes in them. Clear communication that is both informative and solution-oriented, that aims to preserve and promote trust in state institutions, should underpin state actions as well as close cooperation with civil society actors when working with or for refugees, whose agency and individual needs must also be taken into account.



2. Introduction

Berlin, 31 August 2015, Federal Press Conference: Chancellor Angela Merkel commented on the increasing number of people seeking protection in many parts of the EU, including Germany. Shortly beforehand, the Federal Ministry of the Interior announced that around 800,000 asylum seekers could be expected to arrive by the end of the year. "Germany is a strong country," says Merkel, "The motivation behind our approach to these things must be: We have managed to get so many things done – we can manage this (*"wir schaffen das!"*)"

As vague as this statement is, and open to wide interpretation, it is just as important to analyse the consequences of admitting hundreds of thousands of people seeking protection as well as of the increasing efforts to prevent entry, given that migration movements were being ever more comprehensively controlled.

At the initiative of its president, the Max Planck Society commissioned an interdisciplinary research project to investigate the developments following this much-cited and open-ended sentence. Between 2017 and 2020, a research network comprising six Max Planck Institutes, each with extensive research experience in migration, sought to shed light on the terms of reception accorded to those seeking protection, on the responses of European politics and institutions, the resulting changes in the right of asylum and in the administration in Germany, and how people experience their own lives in Germany and the manner in which the state treats them.

Exactly five years after the "long summer of migration" and Merkel declaring "We can manage this", the study undertaken by the WiMi Research Network shows: We managed. The rule of law did not collapse, nor did the state structures prove incompetent to the task of meeting the requirements. Rather, these structures proved to be flexible and changeable enough to take on the challenges. The efforts of the state, civil society, volunteers, activists and, last but not least, of the refugees themselves were key to surmounting the challenges that have arisen since 2015.

Notwithstanding this success, the persistence of significant exclusionary mechanisms cannot be overlooked. At the same time, with the decision in August 2015 to accept people, especially from Hungary, where asylum seekers with no prospects of sustainable protection found themselves in a desperate situation, the Federal Government worked under high pressure to ensure that fewer people would enter Europe, especially Germany, via the central escape and migration routes. At the European level, the member states sometimes work against one another, long-term legal reforms of the asylum system are being blocked, and the distribution of responsibility is unclear. The EU-Turkey Statement, which was expected to mitigate migrations across the Aegean Sea, the establishment of so-called EU hotspots on the Greek islands, or the EU's financial support to the Libyan "coast guard", among others, exemplify the European policy of "keeping out", a trend that Germany has also promoted. At the national level, over thirty-five changes have been instituted in Asylum and Residence Law since 2015, making it more complex, inconsistent and, in instances, even contradictory. In many ways the law was also tightened. At the local level, the reception and support extended to hundreds of thousands of people seeking protection went hand in hand with forms of categorization that also led to the disciplining¹ or the exclusion of many.

That is the second significant finding of this study: We managed, even if, at the same time, many doors were being shut.

¹ On the concept of discipline in social work and in the welfare state, cf. i.a. Johannes Stehr (2007). See also Schader (forthcoming) on discipline in the municipal admission of refugees.



In its analysis, the Max Planck Science Initiative, "*Challenges of Migration, Integration and Exclusion (WiMi)*", uniquely combines both aspects of Merkel's "We can manage this" and offers social, legal, and historical perspectives on the consequences of the migration year of 2015

This report presents selected conclusions of the WiMi study, especially from a legal and social science perspective. It focuses on a selection of scientific findings that exemplifies changes in how refugees were being received in Germany and at the European level since 2015. The manner in which people seeking protection gain admission, and whether they are successful in doing so, is determined to a large extent by legal, political, and administrative factors. Added to that, how a society deals with newly arriving asylum seekers depends on social, civil society, demographic, historical, and many other factors

The WiMi Research Network studied a large crosssection of factors determining the terms of the inclusion and exclusion of migrants, especially of those seeking protection in different historical, national and local contexts. The scope of this report, however, is narrower. It restricts its observations to the years following the events of 2015/16 in Europe, especially in Germany, from a legal and social-science perspective: on the one hand, focusing on the state as an actor in its interaction with refugees and on the other hand, taking into account other actors, especially the refugees themselves and their encounters with the structures and decisions put forth by the state. The WiMi study builds a bridge across the European, the national, and the municipal levels, as it also illuminates the perspectives of the refugees themselves. This report, like the study of the WiMi Research Network, presents a comprehensive view of the developments in a manner that is rarely possible, not least because it analyses the micro, meso and macro levels from an interdisciplinary perspective.

The said selection will be supplemented by shorter summaries of additional WiMi findings (represented graphically in text boxes)² that span an even broader range of insights beyond the limited focus of the observations presented here. As the focus of this report is on the "long summer of migration" and its consequences in Germany, it cannot do justice to the wealth of insights gained from the extensive research undertaken by the WiMi Research Network, and these additions shed greater light on the historical, demographic, and, above all, the non-European perspectives.

The authors of the report were themselves WiMi researchers. In the synopsis presented here, they essentially chose to include the findings of their colleagues, in addition to their own, in order to offer an integrated view of the conclusions of related research studies that were conducted in this scientific initiative and thereby render a more comprehensive view of the situation after 2015. The findings included here directly relate to the focus chosen by the authors, and the content presented here was checked and approved by the investigators of the individual sub-projects.

Using an inter- and multidisciplinary approach that includes multiple perspectives and connects previous – often parallel – research initiatives, WiMi makes an important contribution to the formation and consolidation of a research field that is still emerging in German-speaking countries and to a better understanding of refugee migration and asylum.

² The concluding activity report of the WiMi Research Network and, in particular, the publications deriving from the individual projects, comprise a comprehensive overview of the entirety of the WiMi study.



2a. Brief description of WiMi

The WiMi Research Network *Challenges of Migration, Integration, and Exclusion (WiMi)* was led by Prof Dr Marie-Claire Foblets (MPI for Social Anthropology) and Prof Dr Steven Vertovec (MPI for Research on Multi-Religious and Multi-Ethnic Societies) over the past three years (2017-2020), with the involvement of Prof Dr Ayelet Shachar (MPI for Research on Multi-Religious and Multi-Ethnic Societies) in the founding phase as the co-founder of the initiative. The project coordinator was Dr Zeynep Yanasmayan (MPI for Social Anthropology). The Max Planck Institutes in Berlin, Heidelberg, Munich, and Rostock also partook in the research:

- Max Planck Institute for Comparative Public Law and International Law (Heidelberg),
- Max Planck Institute for Human Development (Berlin),
- Max-Planck Institute for Demographic Research (Rostock),
- Max-Planck Institute for Research on Multi-Religious and Multi-Ethnic Societies (Göttingen)
- Max-Planck Institute for Social Anthropology (Halle/Saale) and
- Max-Planck Institute for Social Law and Social Policy (München).

2b. Question raised by the WiMi Research Network within the scope of refugee studies in Germany since 2015

Refugee studies, especially the social science scholarship on the topic of migration and refugees in the German-speaking area, focuses more on the admission and integration of refugees in Europe (cf. Kleist 2018). Apart from the research that looks more closely at the Global South beyond a Eurocentric perspective, particularly topics such as environment and climate, but also those relating to life expectancy and health, gender and racism are poorly represented in the studies conducted thus far. In addition, systematic sociological studies of local exclusionary processes, which are more closely associated with the reception and integration of refugees, are still largely missing.³

While studies on local refugee and integration policy as well as on local accommodation and reception abound (Schammann 2018; Schammann et al.: forthcoming; Doomernik / Glorius 2016; Dick / Schraven 2017; Bygnes 2019; Baumgärtel / Oomen 2019; Caponio et al. 2019; Kühn / Münch 2019), the research desiderata are mostly restricted to the administrative domain, among others. With few exceptions, however, such topics as the effects of the rapid influx of refugees in 2015/16 on administrative structures and practice, the influence of local administrations and their employees on the lives of migrants (Ellermann 2006; Eule 2014; Dahlvik 2017), and particularly the interface between the administration and protection seekers have not been well studied. In addition, as already mentioned above, approaches centred on exclusionary mechanisms are particularly productive within migration studies, but they nonetheless are rare. That said, it is precisely these questions about the local and individual levels, approached from the perspective of exclusion, that are central, as will be explained below

³ A comprehensive overview of more than 600 research projects, mainly carried out by Dr Anne Menzel, formed part of the extensive preparatory work for the WiMi Research Network and the basis for the theoretical and empirical focus on exclusion and exclusion processes, on exclusion in general (cf. Foblets et al. 2018).



In this dynamic field, legal studies have often focused on the challenges of the multilevel system, comprising the international, European and national law, with the result that there is a general lack of scholarship on the practical effects of legal changes and on the conditions under which the legislative process transpires. An overall analysis of the system, which is characterized by numerous legal sub-systems (e.g. asylum law, asylum procedure law, Schengen law, labour law and social law), is difficult and rarely carried out in detail. Reform is also often designed selectively or specific to an area. Studies exploring forms of exclusion arising from legislation in the multilevel system are sorely lacking.

It has become all the more important in research to connect the dots between the European, national, and local levels and the level of the individual. This requires an interdisciplinary and multi-method approach that can bring together and synthesize the different dimensions of refugee studies. Combining the micro, meso and macro levels in the area of the admission or exclusion of refugees is a challenge, albeit one that promises not only new insights, but above all also a dialogue between different strands of research that far too often are merely juxtaposed instead of informing one another.

In the areas outlined here, the WiMi Research Network makes an important contribution: While the legal dimensions of the research in this project focus on the European and national levels, since the legal requirements are negotiated and decided on these levels, the social science sub-studies focus more on the local and the individual levels. This section on the subject at hand will be followed by a section that will highlight the methodology in more detail.

The WiMi Research Network analyses the legal and political conditions in Germany and Europe as well as the implementation of refugee reception in Germany at the local level, while also giving voice to the perspective of the refugees. Based on the series of migration events that transpired in 2015/16, the initiative's research casts a range of perspectives on different aspects of the study of refugee migration and reception of refugees.

Guiding concept of the research: The multi-dimensionality of exclusion

Focused solely on exclusion, the WiMi Research Network deliberately sets itself apart from the multitude of studies on "integration" and "inclusion". Although integration is a particularly frequently used term, its use in migration research is ambivalent and controversial.⁴

While in Germany "inclusion" is largely reserved to describe the extent to which people can partake in life, especially people with disabilities or those facing other restrictions in social life, in other contexts, it has partly replaced "integration", or at least taken a more prominent place in migration research. Although some of the negative connotations attached to the term "integration" are thereby circumvented, studies focused solely on inclusion overlook essential aspects of the complex processes in societies (also) shaped by migration and diversification. In inclusion-related research, often migrants are cast as needing to be accepted into an existing society, and, in this sense, their inclusion in this society is regarded as a normative goal or as a product of measures taken in that direction, which could succeed or fail.

Often, however, these processes lose their nuances and complexity when the inclusionary and exclusionary dimensions are viewed as mutually exclusive, when in fact they often transpire simultaneously as societies diversify. Ensuring participation in and access to social resources, opportunities, and decisions, and not least with respect to essential areas of social and political life, is a highly complex process in all societies, which – regardless of migration – is not a unidimensional,

⁴ On the difficulties associated with the concept of integration and the simultaneous effectiveness of the concept outside of scientific contexts, cf. i.a. Vertovec (2020): https://www.mmg.mpg.de/565490/WP_20-04_Vertovec_Integration.pdf



monocausal construct. At the same time, ensuring successful admission of such a large number of people within a short period of time, especially in a democratic welfare state, represents both a great challenge and an achievement.

While much of the German-language research on refugees and asylum seekers, and especially research on the rapid immigration of refugees around 2015, emphasizes the centrality of integration and inclusion (see Kleist 2018), the innovative approach WiMi adopts gives serious consideration to the multidimensionality of social processes and refrains from conceptualising participation (or the lack of it) and access (or the lack of it) of migrants with respect to the society they live in as the end product of a unidirectional, teleological development.

In doing so, the WiMi Research Network explicitly rejects a modernization or system-theoretical approach that essentially refers back to Parsons and Luhmann to focus on inclusion in or exclusion from social subsystems. Rather, it has developed its own model to study exclusion in a manner that addresses the different dimensions within a social area of exclusion and possibly simultaneous modes of inclusion and exclusion.

Building on previous scholarship on the social, political and legal exclusion of migrants, the WiMi research initiative defines exclusion as resulting from practices adopted by state and non-state actors that restrict migrants' access to territorial rights and resources and inhibit their participation in social arenas; it has developed a more precise analytical framework based on this definition.

At the same time, the exclusion of migrants is more than just the converse of inclusion. Since migrants come with diverse educational and language skills, experiences, trauma, as well as needs in different areas and life situations, and the social conditions they encounter are also different, their exclusion is not always absolute, but often takes on diverse and multi-dimensional forms. Similar ideas on the subject of inclusion can be found in various academic papers that use terms such as "differential" (Baban et al 2017; De Genova, Mezzadra and Pickles 2014; Fabini 2017; Ye 2017) or "partial" inclusion (Ataç and Rosenberger 2013) to shed light on different dimensions of precariousness or, as in the scholarship of De Genova, Mezzadra and Pickles (2014: 79), to explain the "subordination, exploitation and segmentation" that can go hand in hand with inclusion in different social spheres.

This should by no means be understood to mean a disregard for the marginalizing effects of legal or social exclusion on the lives of migrants. Rather, this enables a more nuanced understanding of the mechanisms of exclusion and the interdependencies, so that the interactions between the diverse facets of these processes can be brought to the fore.

Based on this, the WiMi Research Network highlights six dimensions of exclusion as migrants experience it: acts, actors, areas, moments, representations, and reactions to exclusion (see Fig. 1). This analytical division of migration-related exclusionary processes into six dimensions not only enhances the understanding of exclusion as a phenomenon but also allows a more in-depth analysis of it, especially as a potentially simultaneous, possibly also contradictory, and not an isolated phenomenon.

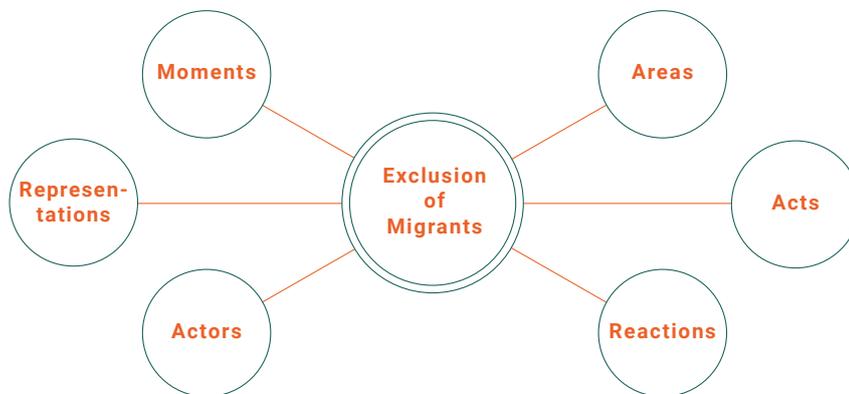


Fig. 1 Dimensions of the exclusion of migrants (Foblets et al. 2018, p. 28)

ACTORS A large number of actors are potentially involved in exclusionary practices. These actors can be governmental and non-governmental. The state (for example, in a legislative capacity) and state subdivisions, such as government authorities and courts, play an important role here. But individuals, as well as certain groups or organizations, can also be agents of exclusionary practices.

For example, the state is a key agent of exclusion when asylum seekers are refused training. It is the employees of municipal immigration authorities who, based on state rules, laws and decrees, draw up the legal decision to deter their entry into training programmes, which effectively also bars them from opportunities for qualified training. Laws and decrees, in turn, result from political processes involving a larger number of actors.

Depending on the unit or level of analysis, different agents of exclusionary practices – individuals and collectives – are at the centre of this investigative study, and they also include the state, the politicians, and administrators at different levels.

ACTS Exclusionary acts encompass a broad spectrum of actions that deter and challenge access to material and immaterial resources, thus preventing or denying membership to or participation in a group or community – in the broadest sense.

Exclusion thus results from zeroing in on a characteristic or on a combination of characteristics that distinguish certain people from the perceived agents of exclusionary practices. Exclusion can transpire through laws, institutional agreements, government regulations or administrative and court decisions as well as less institutionalized instruments, but also, for example, through discursive strategies, rhetoric, norms, practices and habitualized behaviour. In the context of migration, exclusion is inextricably linked to the residence status, on the basis of which certain rights and resources are formally granted or withdrawn. In addition, status changes and status insecurities are phenomena that particularly affect migrants. They may spend a considerable amount of time “in limbo” and are confronted with legal and practical uncertainty.

In relation to the abovementioned example of the refusal of access to training opportunities during the asylum procedure, the very act of drafting the notice constitutes an *act of exclusion* aimed at identifying people on the basis of their legal residence status – those who do not have a status that grants them the right to unrestricted access to training – in particular to be excluded from the opportunity to improve their legal status, which would be possible by gaining access to training.



MOMENTS Another core element in the use of the concept of exclusion is temporality. Migrants are not always excluded with the same intensity. Exclusionary acts are more powerful or occur more frequently at certain moments in time. The typical path of migrants also begins with overcoming the initial exclusion from the territory through a successful entry into a particular state, be that of a legal or an irregular kind. Such moments of overcoming exclusion, especially since they do not mark the end of the exclusion that a person experiences, more pointedly emphasize the importance of viewing exclusion (and inclusion) as moments. In addition, temporality is of considerable importance in mapping the changes in the political circumstances and social arrangements of the period under study.

Examples of moments of exclusion can therefore be found on the individual as well as on the collective levels. At the individual level, for example, receiving a negative asylum decision marks a particularly important moment of exclusion, which entails loss of the security of residence status and of access to certain rights; the respective person can also no longer belong to the (fictitious) group of legal status hopefuls after the asylum procedure. The possibility of an appeal renders this central moment of exclusion into a moment of residence security and hope. For the person concerned, the period of time constituting the moment of exclusion can also be significant. A quick negative decision raises the question of whether all relevant aspects had indeed been given due consideration. Long delays and waiting times during the proceedings, however, also expose those affected to living conditions that the rule of law deems precarious and may make a different residence regulation necessary.

AREAS Exclusion can occur not only at different points in time, at different time intervals, and by different means adopted by different actors, but also in different areas. Exclusion in one area does not necessarily mean exclusion in other areas, nor does inclusion in one area guarantee inclusion in others. As a rule, the different areas of exclusion are connected, but their relationship to one another need not be inevitably direct and/or causal.

If asylum seekers are deemed lacking in “good prospects to remain” (*gute Bleibeperspektive*) and are on that basis denied initial access to an integration course (in large part, a German language course), the repercussions of being barred from a simplified way of coping with everyday life are drastic. Lacking knowledge of the German language can make something as simple as shopping somewhat complicated. Filling out forms or interacting with authorities becomes an even bigger challenge. At the same time, those affected are not necessarily excluded from other areas: access to services as laid out in the Asylum Seekers Benefits Act (*Asylbewerberleistungsgesetz*) or to medical care, and entitlement to schooling for applicants’ children (thus also to language learning) after a three-month stay at the latest, remain – at least formally – unaffected by their prospects to remain.

A child who is, as is customary in some of the sixteen federal states, first assigned to a so-called “welcome class” or “language class”, receives a great many hours of German lessons and thus, formally, has a privileged access to the German language. At the same time, children are excluded from the possibility of attending regular lessons, a “normal” and therefore not specifically labelled class, and of making early contact with children of the same age, with children of long-stay residents as well as with children whose mother tongue is German.

REPRESENTATIONS In particular, acts of and reactions to exclusion are presented in different ways through various representations or, in a broader sense, narratives that are produced by the media, the arts or by others – including the migrants themselves. These representations can highlight collective memories of migrant exclusion, which illustrate more vividly temporary experiences of exclusion that migrants often encounter. In addition, migrants develop individual and collective representations of their own experiences of exclusion. Shared experiences of migration and exclusion contribute to the emergence of collective representations.



The “Black Lives Matter” (BLM) movement exemplifies the differences in the perception and representation of experiences of exclusion of BIPOC (Black, Indigenous and People of Colour) in different countries. It also shows that other groups affected by practices of racism and exclusion (such as the descendants of Turkish migrant workers in Germany or the descendants of North African migrant workers in France) succeed in connecting with the movement through their own representations, their own narratives of exclusion.

REACTIONS Reactions of migrants to experiences of exclusion are not just passive, but can sometimes also manifest as individual or group strategies, ranging from efforts to overcome exclusion to asserting their own social and cultural participation to self-organization in their own community, as a way to create space for participation (see Wimmer 2008). Alternatively, or in addition to this, migrants can, for example, exclude themselves from the (perceived) mainstream, or try to improve their situation through legal channels with (or without) support from aid organizations or lawyers.

Reactions can therefore take on very different forms: many cultural associations, but also political self-organizations of migrants that emerge constitute a reaction to exclusion. This includes spawning their own media outlets, sports clubs, churches as well as joining an established party or union. Reactions also include filing legal remedies and activating support structures or working as “integration pilots” or language mediators, as members of the parliament or as teachers, as well as attitudes of resignation and selfabandonment when dealing with lengthy decisionmaking processes, or even a hunger strike to protest against the conditions of admission or the asylum procedure.

WiMi has explicitly focused on these six dimensions of exclusion, not as independent variables, but as variables that bear links to one another. There are a large number of governmental and non-governmental actors who, at certain times, carry out acts of exclusion in certain areas. Such acts of exclusion are produced and reproduced through representations of exclusion, and challenged or confirmed through reactions to them. This relationship between the various dimensions of the exclusion of migrants can be schematized as follows:

Exclusion of Migrants

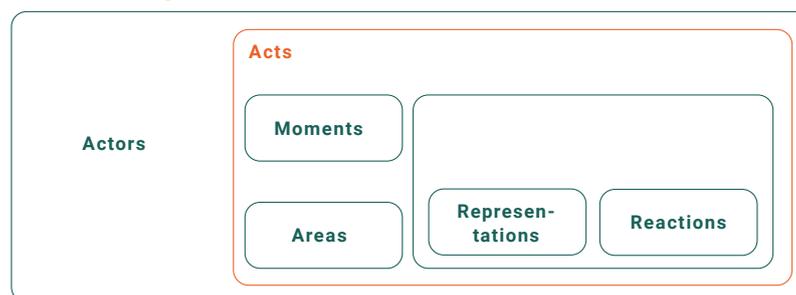


Fig. 2 The relationship between the dimensions of the exclusion of migrants (Foblets et al. 2018, p. 32)

The individual projects use the WiMi analytical framework as a reference point to attend to the specific questions they each address in greater detail. The focus on individual dimensions differs depending on the discipline and points to the different research perspectives.



2c. Methods and data

The WiMi Research Network builds explicitly on a multi-method approach. While an evaluation of the archival sources was central to both historically based studies, the social-science sub-studies focused on qualitative and ethnographic methods. Depending on the study, the mix of the sociological-qualitative method included other approaches, such as:

- extensive on-site field research, including observations, a large number of informal discussions, assistance with visits to authorities, etc.,
- additional participant observations,
- biographical interviews,
- expert interviews, and
- document analysis.

Data from other studies of the participating institutes financed by additional funds were also used. One such study, “Qualifications, Potentials and Life-Courses of Syrian Asylum Seekers in Bavaria”, was carried out in 2017 by the MEA department of the Max Planck Institute for Social Law and Social Policy with additional funds provided by the Max Planck Society. In particular, it explored the connection between the individual expectations of migrants and their qualifications as well as the possible influence of psychological factors stemming from stressful life experiences. The experiences and conclusions drawn from these studies have significantly influenced the “Survey on Migrants’ Expectations in Germany”, which was carried out as part of the WiMi Research Network. Second, also included were the results of the study, “Asylum Seekers between Accommodation and Integration: Institutional Arrangements in Comparison”, which was funded by the Volkswagen Foundation, and the previous pilot study, “The Diversity of Needs and Visions of the Future of Refugees”, likewise supported by the Volkswagen Foundation. Both studies were based at the Max Planck Institute for Research on Multi-Religious and Multi-Ethnic Societies and were carried out in close cooperation with the WiMi Research Initiative and the WiMi researchers.

In making a legal assessment of the practical forms of migration administration, the legal research team used international, European, and national legal bases and the corresponding juris-prudence to analyse the observed phenomena. In addition, the changing role of law in the area of migration was analysed, interviews were conducted, and the goals that were set to be achieved through legislation, gleaned through an examination of the legal materials, were also analysed. The key issues addressed in the legal domain concerned the role and the impact of law, and the function of permanent legislation in a quasi-permanent state of crisis. The classical legal method of interpreting the law and analysing jurisprudence was supplemented by document analyses and expert interviews.

The exact details of the methodological approach of the individual sub-studies are presented in the respective subchapters.

Inter- and multidisciplinary research on migration

Interdisciplinary approaches place high emphasis on conceptual and methodological approaches, as they entail integrating methods or concepts from two or more disciplines that significantly influence the research outcome of the other disciplines involved (see e.g. Parthey 2010, 15 f.), while multidisciplinary research does not necessitate interaction conceptually and methodologically. Since refugee studies are seldom acknowledged as an independent discipline, at least in Germany (Kleist et al. 2019), and the corresponding conceptual bases have not yet been fully established, the choice is usually only between multidisciplinary and interdisciplinary approaches. From a theoretical point of view, the advantage of mono- and multidisciplinary research is that it allows for a deeper understanding and



analysis of the phenomena than interdisciplinary research. Due to the conceptual and methodological difficulties associated with the design of interdisciplinary research it will often be deemed superficial from a disciplinary perspective (Parthey 2010, 15; Welzer 2006). Extensive preparatory work is required before an interdisciplinary project can produce substantial findings.

As shown below, in the project on the realities of the life and expectations of Afghan migrants (see p. 33), it was of utmost importance to define what kind of results were expected and why interdisciplinary work was important for those results, especially before starting the interdisciplinary project. Legal and social-science questions were intertwined in the project. As a rule, the applicable legal norms have a decisive influence over the (official) reality of migration (Kneebone et al. 2014). A knowledge of this "legal reality" is necessary for research on migration. Nonetheless, reflections on the role of law in the area of migration are highly controversial within migration research (see, for example, Kneebone et al. 2014) and are therefore of central importance for projects, such as the project at the Max Planck Institute for Social Law and Social Policy, that intend to undertake an in-depth analysis of the onsite interaction between law and reality. If, from a scientific point of view, the purpose of the involving other disciplines within the scope of the research is to create an additional set of controls for the research question, or to use the other discipline as an auxiliary instrument to verify disciplinary findings or to avoid methodological misunderstandings, or to ensure that important questions are not overlooked, it usually makes more sense to opt for an interdisciplinary rather than a multidisciplinary project. The WiMi Research Network used disciplinary, multidisciplinary, and mutually influencing interdisciplinary approaches to generate an indepth analysis of the phenomenon of exclusion in migration contexts.

3. Main conclusions: We managed – and we changed in the process

The "long summer of migration" in 2015, followed by a hectic autumn and winter, which culminated in the closure of migration routes in spring 2016, introduced shifts in the German migration policy. The WiMi study shows that the welcome culture that had so clearly emerged that summer went hand in hand with enormous efforts to welcome all newcomers and to create opportunities for participation – but it also entailed significant processes of exclusion on several levels. With reference to Angela Merkel's declaration of 31 August 2015 – "We can manage this" – the central conclusion of this phase of accelerated refugee migration and refugee migration policy is: We managed, and we changed in the process.

In other words: locals and newcomers managed to prevent a humanitarian catastrophe within the EU and successfully organize the reception of hundreds of thousands of refugees. At the local level in particular, state and civil society structures changed in some cases to such an extent that, as shown below, they are now better adapted to the requirements of a diverse society. At the national level, individual areas of society opened up to a limited extent, especially the labour market, and this was achieved through changes in the law and through specifications for changes in practical application at the national level. However, the rapid admission of asylum seekers in 2015/16 from the European to the municipal levels was also largely linked to existing and new policies and practices, which often intentionally, but sometimes also unintentionally, exclude those seeking protection. The trend to exclude refugees is evident in all areas: from the lack of access to education, adequate accommodation, work, legal advice and legal remedies to a complete exclusion from the possibility of applying for asylum in Europe by keeping refugees away from the European territory.



Notwithstanding the relatively low asylum numbers in the late 1990s and early 2000s – including new initial asylum applications as well as the follow-up and confirmatory applications – they have been rising steadily since the beginning of the second decade of the new millennium. Nevertheless, political actors and administrations in Europe were often poorly prepared. The EU's Common European Asylum System (CEAS) adopted at the EU summit in Tampere in 1999 proved to be dysfunctional for the situation in 2014-2016, entailing relatively unhindered entry across certain external EU borders, since the relocation mechanism under the Dublin Regulation would have placed the onus of carrying out a disproportionately high proportion of asylum procedures and accepting asylum seekers on the southern and eastern EU member states with EU external borders on the main routes taken by the refugees to Western and Northern Europe. In practice, the vast majority of asylum applications were and are still filed in Western Europe and the requisite procedures are carried out there. Nevertheless, several of the named member states saw themselves as involuntary receiving states and were, at the same time, overwhelmed by the number of arriving asylum seekers identified there in the years 2014-2016.

In Germany, too, the Federal Office for Migration and Refugees (BAMF) lacked the capacity to process all asylum applications, and the administrative courts did not have enough staff to process all asylum procedures quickly. At the state and municipal levels, the reception capabilities for asylum seekers were being reduced since the mid-1990s, although the lower numbers (of applications) in the late 1990s and early 2000s represented an exception rather than a rule.

ASYLUM IN GERMANY IN NUMBERS

In Germany, the number of first-time asylum applications rose to more than 100,000 in 2013 for the first time since 1997 and the trend continued in 2014. Between 2014 and 2017, more than 1.5 million people made a formal first application for asylum in Germany. The number of arrivals reached its peak in 2015.

Most asylum applications, with over 720,000 applications, were (only) registered in 2016 because in some cases there were considerable delays in the formal application. In 2017, the responsible Federal Office for Migration and Refugees (BAMF) issued a large part of the asylum decisions based on those applications, with a little over 600,000 decisions on asylum applications. Since then, the number has declined, while the number of asylum complaints pending in administrative courts only began to decline later, and slowly.

The figures seem to be consolidating, because in 2019 (only) slightly more than 140,000 first-time asylum applications were filed in Germany, of which around 30,000 were new-born children of parents entitled to protection.

More than 40% of the decisions in the matter concerned the three countries Syria, Iraq, and Afghanistan. Since 2014, Syria has been the main country of origin with around a third of all asylum applications, and the shifts in the main countries of origin are sometimes very dynamic, with only Iraq and Afghanistan being among the countries of origin with the highest numbers of applications each year.

The recognition rates (for all forms of protection) for these countries vary and are over 99% for Syria, while the protection rate for Iraq and Afghanistan is around 50%. The statistics show that the majority of people who have received a decision on the matter from the BAMF are entitled to a residence permit after the asylum procedure.

The rights arising from international refugee law as well as European and national law play an important role in ensuring human rights protection for people fleeing persecution or serious harm. The legal and political changes, which have been geared more towards deterring asylum seekers



and limiting their numbers in Germany since 2016, have had a significant impact on refugee protection. Against the backdrop of the statistics since 2016, this is particularly clear: The proportion of decisions on applications from people from the three countries of origin has decreased significantly from 81.2 % in 2016 to 43.5% in the year 2019 (with the majority of asylum applications from Syrian nationals being lodged for new-borns in Germany). As a result, the absolute number of people who have been granted protection has fallen significantly since 2016, although the worldwide number of forcibly displaced persons has increased to 79.5 million people in 2019 according to the UNHCR (from 65.5 million in 2016).

(cf. <https://www.bamf.de/SharedDocs/Anlagen/DE/Statistik/BundesamtinZahlen/bundesamt-in-zahlen-2019-asyl.html?view=renderPdfViewer&nn=284738>)

Notwithstanding this lack of preparedness, the number of asylum applications in the EU has registered a spike since 2011. With the increased visibility and the growing political influence of rightwing groups, such as Pegida in Dresden with their offshoot initiatives nationwide, and the AfD from 2012 onwards, migration and asylum became even more apparent as a social and political line of conflict.

In the summer of 2015, asylum seekers in several EU countries found themselves in such precarious situations that politicians – as well as parts of the scientific community (see, for example, Den Heijer / Rijpma / Spijkerboer 2016) – saw it as a risk not only to the CEAS but also to the underlying, far more comprehensive Schengen Agreement, and thus the European internal market. Under these circumstances, the German federal government decided to follow the Schengen regulations and not close its territorial borders, but rather allow a large number of people to apply for protection, in particular those from Syria, who entered Germany mainly via the so-called Balkan route. Instead of insisting on the jurisdiction of the countries in which the asylum seekers were first registered in the EU on the basis of the Dublin Regulation – which, within the framework of the CEAS, regulates which state is responsible for carrying out an asylum procedure – Germany and some other countries, especially Sweden, decided to take in the asylum seekers and initiate the asylum procedures. Transfers to a different EU member state on the basis of the Dublin Regulation were often not legally or practically possible at that time, as the introduction of this system in 1997/2003 had not resulted in transfers in significant numbers. As will be shown in the following, this gave rise to a discussion about the sudden failure of the system, which blocked out the existing reality, and still partly forms the basis for the (repeated failures of) reform discussions today.

In the years before, significantly more people, in particular from Syria, but also from the Western Balkans, Iraq and Afghanistan, had come into the Western EU countries. Now the numbers in the EU and also in Germany have started to increase at an even faster pace, so that Germany remains – despite a significant drop in asylum applications since 2017 – one of the ten most important receiving countries worldwide since 2015 (UNHCR 2020). Due to the poor legal and organizational preparation, this immigration situation posed major challenges to the German system for accepting refugees and processing asylum applications – in particular due to an enormous increase in uncertainty and complexity. At the same time, civil society and the state have also demonstrated the efficacy of their process and efficiency in organising cooperation for the reception of refugees (see e.g. Becker / Kersten 2016).

In response to the challenges, reducing the uncertainty and the complexity constitutes two important poles: On the one hand, a clear opening of channels of a structural and individual nature for the newcomers, both on the macro and meso level as well as on the micro level. National (and federal) decisions – symbolized by Merkel's "We can manage this" declaration – and legislation partially facilitated the rapid admission of those seeking protection into the labour market, educational facilities and welfare state structures, wherein legal barriers were removed, or new opportunities



created.⁵ This was accompanied by an enormous mobilization of state, parastate and civil society organizations as well as voluntary helpers and activists, which made a decisive contribution to largely preventing (persistent) homelessness and by providing primary care and support for most asylum seekers.

On the other hand, in the period after 2015, mechanisms of exclusion and those that led to closures at the European, but also national and municipal levels were an essential part of the administration's strategies to mitigate its own uncertainties and grapple with complex challenges. As will be explained below in greater detail, serious exclusionary mechanisms can be observed at the European level, partly as intended policy outcomes, partly as the unintended consequences of policies put in place elsewhere. Closely linked to the measures to take in refugees and to relieve the EU member states that were struggling with immigration since 2014, or those unwilling to grant protection – not only measures adopted in Germany – were steps to drastically reduce the number of new arrivals. The closure of the so-called "Balkan Route", in particular the EU-Turkey Statement and attempts to externalize asylum procedures, have resulted in the relegation of tens of thousands of people to camps on the Aegean islands. The housing and hygienic conditions there – even during the Covid-19 pandemic – are pathetic; furthermore, children and young people largely lack access to education. With this shift of the EU's external borders in the area of migration to the absolute periphery of the Union, thousands are excluded from access to a transparent asylum procedure, to legal advice and remedies, to work, health, education, social contacts beyond the camps and even to family members within the EU. In addition to the mitigation of the pressure placed on the European and national asylum systems by setting up these hotspots, the purpose of such camps is also to discourage people from entering the country, from attempting to migrate to Europe, and to keep them at a remove from the European territory.

These explicit – as well as implicit and unintended – acts of exclusion are also apparent at the national level. Extensive legal changes have made the German asylum law more complicated and sometimes more contradictory. In addition, as this chapter shows, elements of the asylum legislation since 2015 aim to exclude asylum seekers in different areas; they range from the categorization of asylum seekers on the basis of their "prospects to remain" and, dependent on that, their access to certain rights or benefits from admittance to language courses via the limited family reunification and the establishment of so-called AnKER centres, right up to the introduction of a "light" variant of *Duldung* (temporary suspension of deportation) which entails making access to basic rights dependent on cooperation with attempts to clarify identity and obtain a passport.

These contradictions, discontinuities, but also simultaneities of inclusion and exclusion, are re-enacted at the local level: While the local administration, i.e., the local state as an organization, did not collapse in 2015 and 2016, contrary to occasional predictions, it still faced challenges. The study carried out by the WiMi Research Network depicted below shows that municipalities have mastered this well insofar as the initial care and accommodation for the newcomers, while not always sufficiently good,⁶ was usually adequately guaranteed. In addition, a large number of volunteers that were involved in many places offered direct support to the administrations and the refugees – with the distribution of aid supplies, as translators or German teachers, with activities and as "sponsors". In many places, new positions have been created for volunteer coordinators and refugee coordinators. As will be shown in detail below, there are also strategies at the local level to reduce the complexity and uncertainty by facilitating access and through transformation: Municipalities in various federal states used the window

⁵ For example, by introducing the option of starting training during the asylum procedure.

⁶ An emblematic example of this is certainly the Berlin State Office for Health and Social Affairs (Berliner Landesamt für Gesundheit und Soziales, LaGeSo), which was so overburdened in 2015 that people seeking protection queued for days to receive the necessary certificates for accommodation, etc. (see, for example, <https://www.sueddeutsche.de/politik/lageso-berlin-die-im-regen-stehen-1.2754074>).



of opportunity that the rapid immigration of asylum seekers had opened up to undertake a comprehensive restructuring and reconceptualization of how they handled new immigration and migration-related diversity administratively and socially.

It can be observed at the local level at that same time that externalization and exclusionary mechanisms emerged as important ways of reducing complexity. For example, individual municipalities refused to accept the asylum seekers assigned to them, and, especially in terms of the accommodation of refugees, it is possible to discern not only a great many local differences, but also intended (and sometimes unintended) forms of exclusion. Actions and experiences of exclusion become even more evident when the focus shifts from the meso to the micro level: Refugees often experience the state as an agent of exclusion that does not – in some cases does not aim to – do justice to the realities of the life and the needs of the people. Refugees, as asylum seekers, beneficiaries, but also as parents, as those willing to train and study, seek work or organise accommodation, often see themselves confronted with state or statemandated actors, whose regulations and categories threaten to overwhelm them. These confrontations very clearly indicate that if local asylum and integration policy is not understood as part of a local social policy that is oriented towards diversity, the complexity of migration is likely to be compromised.

By relying on the results of the various sub-projects that are closely interlinked through their focus on exclusion and their use of the dimensions model presented above, the WiMi Research Network succeeds in creating an evidence-based arc that connects the European to the local level. In particular, the twofold complexity of the exclusion processes becomes clear: On the one hand, migration policies and legislation as well as the agency of those seeking protection produce a simultaneous and complex interweaving of inclusion and exclusion processes that often have unintended consequences. On the other hand, the increased complexity of asylum- and migration-related politics and legislation as well as the fundamental heterogeneity of “the” refugees herald new forms of exclusions.

3.1. Jurisdiction establishing the central link

Located in the field of legal research on access to the asylum procedure, this study focused on the processes and legal and political framework conditions that impact the arrival of refugees. The border politics and the legal and political framework concerning the arrival and handling procedures brought to light certain spatial and legal areas of exclusion that had been consciously created through political acts and legislation, or through administrative practices. In addition, there are conscious acts of exclusion, which are present in specific situations within the practice that have infiltrated into the individual or collective awareness of the topic of migration.

From a legal point of view, the central point of contact that triggers the obligation to assume responsibility for refugees is the exercise of actual jurisdiction. This means that once a person is under the effective control of the organs of a state, that state assumes the primary responsibility for the protection of the person. For that reason, in the European context, this means that in accordance with the protection obligation, arriving refugees who apply for protection may generally be transferred only in small numbers to states outside the Schengen Area.⁷ The methods used by states for this purpose are often legally dubious (safe third-country procedures) or clearly illegal (direct refoulement or deportation to another country, so-called push-backs).

⁷ The Schengen Area includes almost all member states of the EU and four associated states that dispense with border controls in the internal area, creating an area of free movement. The area is named after the place Schengen, where the decision to create an internal area was made.



This also corresponds to the legal situation, since according to the recently reconfirmed case law⁸ of the European Court of Human Rights (ECHR - "Strasbourg"), the exercise of jurisdiction is the decisive link that triggers the responsibility for refugee protection under international law. For the European context, the ECHR made this clear through its decision in the *Hirsi* case in 2012. In this judgment, the Court of Justice called the Italian coast guard's push-backs to Libya unlawful, since the actual exercise of jurisdiction (here specifically: the control by the Italian coast guard on the high seas) is sufficient to trigger the guarantee of the protection obligation.

The case law of the Court of Justice of the European Union (CJEU - "Luxembourg") has made this point clear. Contact with government agencies activates information obligations for them, even if the specific government agency is not responsible for dealing with asylum applications (see most recently, CJEU, judgment of 25 June 2020, C-36/20, VL). Regardless of whether or not an application is submitted, the member state is obliged to carry out a return procedure, including comprehensive legal protection options before a possible deportation (see in particular CJEU, judgment of 18.6.2018, C-181/16, Gnandi). This also applies if a person is to be referred to another state that will take on the responsibility.⁹

The effect of the so-called principle of non-refoulement, which prohibits a causal contribution to an expulsion or deportation of any person if there is a risk of persecution, torture or inhuman or degrading treatment or punishment, has also been comprehensively dealt with in the literature. The more recent scholarship carries the broad consensus that a purely territorial interpretation of the principle of non-refoulement no longer does full justice to the current phenomena (cf. e.g. Gammeltoft-Hansen 2013, Den Heijer 2012, Wouters 2009, DeWeck 2014, Moreno-Lax 2018), because, on the one hand, jurisdiction can also be exercised outside the sovereign territory (e.g. on the high seas) and on the other hand, it is possible to indirectly participate in deportations or prevent emigration through support (e.g. to the Libyan coast guard).

At the same time, borders have changed significantly in their functioning and functionality due to the new policy approaches and new technical possibilities, so that now more than ever, a border cannot always be understood merely as a physical line, in that other phenomena (such as departure checks or the threat of sanctions in the event that airlines would not implement them) have the same effect in the context of migration (see e.g. Bigo 2014). Certain forms of migration control no longer offer legal clarity on what exactly defines a limit (cf. e.g. Shachar 2020, Basaran 2017, Moreno-Lax 2018). In this context, one of the questions that arises is when exactly mass deportation is legally prohibited (Carlier/Leboeuf 2019).

The validity, conception, and enforceability of human rights positions in the field of migration are severely impaired by restrictive state approaches to interpreting the corresponding norms (Costello 2016, Markard 2012, REMAP 2020). The coexistence of the European Court of Human Rights (ECHR) as the last-instance individual court with the mandate to ensure compliance with the European Convention on Human Rights (ECHR) and the Court of Justice of the European Union (CJEU), which has a monopoly over interpretation of EU law, greatly influences the overall design of the system (Cornelisse/Moraru/De Bruycker 2020, Thym/Tsourdi 2017). The lack of a clear allocation of responsibilities between these two courts in human rights protection also shapes debates about the precise content of legal obligations. In addition, the meaning of the European legal principles of mutual trust and solidarity between the member states is unclear (Maiani/Bieber 2018, Thym/Tsourdi 2017, Garlick

⁸ Cf. in particular the case law of the ECHR from November 2019 (*Iliad and Ahmed vs. Hungary*, No. 47287/15), February 2020 (*ND and NT vs. Spain*, No. 8675/15 and 8697/15) and March 2020 (*MN et al. against Belgium*, No. 3599/18).

⁹ This applies to both Dublin proceedings (CJEU, judgment of 31 May 2018, C-647/16, *Hassan*) and third-country proceedings (CJEU, judgment of 19 March 2020, C-564/18, *LH* and judgment of 14 May 2020). 2020, C-924/19 PPU and C-925/19 PPU, FMS etc.).



2016) and is more or less overtaken on the practical side by a renationalization of migration control efforts (Den Heijer/Rijpsma/Spijkerboer 2016). For the system to function, common standards are essential (Becker/Hagn 2016, Becker 2019, Bast 2011).

Part of the legal research carried out by the WiMi Research Network is located in this context, and this was important for examining the effects on law, politics and practice. Luc Leboeuf, Constantin Hruschka, and Catharina Ziebritzki placed a special emphasis on the changes in European border policy and on efforts to reform the CEAS. In addition, Catharina Ziebritzki examined the changes in the EU hotspots, which were originally designed as a solidarity mechanism (see in particular Ziebritzki/Nestler 2017 and Ziebritzki forthcoming in 2020).

In addition to the fundamental overviews of European case law in asylum and migration (Carlier/Leboeuf, Hruschka/Progin-Theuerkauf), Luc Leboeuf and Constantin Hruschka have also prepared structural analyses of migration policy for the member states of Belgium and Germany as well as for Switzerland (Leboeuf for Belgium and Hruschka for Germany and Switzerland in Carlier/Foblets, forthcoming in 2021), to allow an indepth research on the externalization tendencies that have shaped this area.

In addition, Constantin Hruschka and Tim Rohmann have identified a trend towards “hyperactive legislative activity” in the legal field in Germany (Hruschka/Rohmann 2020), which can also be described as “legislative actionism” (Berlit 2017). The legal dimension of the research, in a sense, focused on the effects of this trend on the legal system and practice nationwide, especially for the affected persons and for the authorities.

The dynamic transformation processes in the institutional framework are also reflected in the research on the new accommodation facilities (“AnKER Centres”), which Tim Rohmann and Miriam Schader analyse from an interdisciplinary perspective in collaboration with Sybille Münch (University of Lüneburg), and which Tim Rohmann again analyses in greater detail from a legal perspective. Practical and legal questions were analysed for an expert hearing in the Bavarian State Parliament in a scientific report prepared by Constantin Hruschka. The projects led by Constantin Hruschka and Tim Rohmann, by May Khourshed, Christian Hunkler, Diana López-Falcón, Romuald Méango and Axel Börsch-Supan as well as by Magdalena Suerbaum, described below, addressed the effects of the legal conditions and changes from different professional perspectives. The striking importance of the legal status and the knowledge or information about the law and its enforcement possibilities became particularly clear in these projects.

3.1.a. Externalisation

POLITICAL DIMENSION The trend towards externalization and “securitization” of migration control, which has been discussed in scholarship for years (cf., for example, Buzan/Waever/deWilde 1997, Huysmans 2006, Banai and Kreide 2017, Lazaridis and Wadia 2015, Moreno-Lax 2018) is less significant on the legal level than in actuality and in the upstream political decision-making. The development of informal and legally not tangible agreements is reflected in the EU-Turkey Statement of March 2016. In their studies, Luc Leboeuf, Catharina Ziebritzki, and Constantin Hruschka have also drawn on and analysed the legal basis and the effects on legal protection and practice (Leboeuf/Carlier 2017, Hruschka/Progin-Theuerkauf 2017/2018, Ziebritzki 2018). The massive acts of physical exclusion associated with these practices, which also take place on the central Mediterranean route (Frei/Hruschka 2017, Markard/Farahat 2020) and in direct refoulement (so-called hot returns) at the borders of the Spanish exclaves in Africa (Hruschka 2020; di Filippo 2020), are also reflected in policy shifts at the EU level.



The conclusions drawn by Luc Leboeuf in this respect from his study of the legal sources, policy documents, and semi-structured expert interviews with employees of the EU institutions and the authorities in Belgium show how European border policy is "made" in Brussels. Their primary goal seems to be to deter the physical presence of people who migrate irregularly to the Schengen Area. Persons prevented from reaching the Schengen Area cannot gain access to an asylum procedure and the individual responsibility to protect is not activated as actual jurisdiction is not exercised.

This project shows the exclusionary effects of the EU border policy due to its external dimension and/or the difficult access to the borders of the Schengen Area. Luc Leboeuf's study illustrates the expanding landscape of policies aimed at preventing physical arrival, and highlights the changing policy approaches in this area, which were and continue to be applied in the wake of a spike in the number of asylum applications.

Based on the data collected, he analyses the consequences of these institutional developments on the legal, institutional and social dynamics that determine the EU border regime in its external dimensions. This enabled the study to delineate the transition of EU border policy from the policy field of Justice and Home Affairs (JHA) to that of the Common Foreign and Security Policy (CFSP), which is subject to different institutional dynamics of power politics as well as different control mechanisms.

The observed shift gives rise not only to new legal and political instruments. High-ranking employees in the bureaucracy with different backgrounds and habitus also become involved in a way that affects the concrete legal and policy outcomes. As a result, this shift and the associated processes and objectives also pave the way for a greater informalization of EU border policies, in practice, with the intention of producing exclusionary effects. The agents of exclusion are increasingly becoming "invisible" because *acts of exclusion that transpire are no longer obvious*. The *moments of exclusion* shift from the level of visible exclusion, deriving from rejection during a border control on European territory, to a more informal level by preventing the possibility of arrival prior to departure from the respective third country. As a result of this informalization, the legal control of such practices becomes considerably more difficult and, for the most part, impossible. Formal legal practices would allow the spotlight to be thrown on exclusion, which is why they take a back seat to the considerably challenging prospects of initiating legal reactions to exclusion.

At the same time, however, such practices also carry the promise of new forms of multilateral cooperation in managing migration, which is reflected, for example, in the adoption of innovative political instruments, such as the 2018 Global Compact for Migration and the 2018 Global Compact on Refugees. The low binding force of international law is both its strength and weakness, since the implementation depends heavily on the political will of individual countries and actors who are ready to let the agreed standards take effect (Hruschka/Rohmann 2018, Peters 2018, special issue IJRL 2019).

In this context, Catharina Ziebritzki offers a detailed analysis of the role of the law in which she highlights the challenges that arise when the law reacts or aims to react flexibly to crisis-ridden processes. Constantin Hruschka's research on the failure of the CEAS reform and the analysis by Catharina Ziebritzki and Robert Nestler of how the implementation of the EU-Turkey Statement has fallen foul of legal standards underscore the impossibility of redefining the relationship and the dynamic between the practical externalization of border processes and the legal developments, and of making them feasible for migration management.

The increasing number of exclusionary processes can no longer be encapsulated merely as *moments of exclusion*, for these processes also represent *acts of exclusion* with enduring effects. Both an avoidance of the exercise of jurisdiction in a legal sense and the formal or informal deterrence of access to legal protection options, found mainly in practice, create a legally elusive, informal framework for regional policy-making, which, according to Luc Leboeuf's analysis, is often presented as having no



alternative in view of the blockade at the European legislative level. With regard to the research findings on policymaking and on EU hotspots, the question that next arises against this background, namely whether the law in this area can fulfil its role as a catalyst for social conflicts and processes of change, appears increasingly questionably at the EU level.

However, CJEU resolutely opposed the attempt to transfer these informal outsourcing processes to the Schengen Area through acts of exclusion at the internal borders, advocating for territorial unity of the Schengen Area (cf. the analyses in Leboeuf/Carlier and Hruschka/Progin-Theuerkauf on the CJEU case law). Within the sovereign territory of the Schengen states, these informal exclusionary processes apply only in the context of practically ineffective and illegal agreements at certain internal borders. This has the effect that within the EU territory, legal mechanisms are essentially used for exclusion due to the individual nature and the fundamental justiciability of the acts of exclusion (see below 3.1.b.).

This also applies to mechanisms that rely on more informalized cooperation, such as the so-called Seehofer Deal (with Spain and Greece). With this deal, Germany tried to circumvent the strict legal protection rules of the Dublin Regulation. To this end, Germany only concluded rudimentary formalized administrative agreements with Greece and Spain, which are intended to enable those who made their first asylum application in one of these two countries outside of the Dublin procedure to return. For based on a Eurodac hit,¹⁰ this transfer is also supposed to take place within 48 hours without any further formalities. Access to legal protection is difficult in practice: the legal action procedure must usually be initiated by the country to which the person was returned, as there is usually no opportunity to file a legal protection application before the transfer. Catharina Ziebritzki points out the challenges of the jurisprudence to counter these new developments with current legal standards and presents the political components of the administrative judicial processing of this new informal form of intra-European cooperation. Following this, Constantin Hruschka analyses the underlying spatial concept to show that the territoriality concept on which the "Seehofer Deal" was based not only created a no-man's land that runs contrary to the concept, but also called the territorial unity of the Schengen Area as a whole into question. Such a legally free exclusionary area in turn poses a danger for the integration of the EU, far beyond the problem of the abandonment of territorial integrity, and potentially for the European project in the long term.

Maintaining internal border controls has a high symbolic effect and is effective in many ways as a *representation of exclusion*. In view of the practically very small effect and the comparatively low number of cases, this may come as a surprise, but it may be understood from the topos of the need to restore control, which is particularly prevalent in the narrative of the "migration crisis".

RESETTLEMENT

In addition to returns and local integration, resettlement is internationally recognized as one of the three durable solutions for refugees and is therefore a fundamental instrument of refugee protection.

The failed proposal for an EU resettlement framework regulation from 2016, with which a European legal framework for the resettlement of vulnerable persons from a third country to a member state of the EU was to be created, exemplifies the connection of exclusion elements with the promise of permanent integration for persons who can enter via the mechanism (Thym 2017, Hruschka 2017). The proposal combines domestically motivated migration control mechanisms with excluding

¹⁰ A Eurodac hit occurs when fingerprints are compared in the Eurodac database and it is found that the person has already applied for asylum in another member state or was apprehended and checked there while crossing the border irregularly. In these cases, the Eurodac regulation requires fingerprints to be taken and saved.



conditionalities that apply at both the state and the individual level. This means that state or individual "misconduct" is sanctioned by exclusion. The misconduct to be sanctioned lies in the lack of willingness to cooperate with the migration authorities, in particular the border crossing control, or in the individual attempt to cross the EU external border irregularly. In these cases, resettlement should no longer be "offered" as a permanent solution.

In her research, Catharina Ziebritzki has studied the constitutional problems of the EU with respect to the resettlement process and has shown that many constitutional questions remain unresolved owing to the lack of the binding force of the legal framework and the unclear role of the individual actors, but to which the solution of anchoring resettlement under European law is central. Analysing the legal framework for resettlement that is currently applicable, she comes to the conclusion that the EU resettlement law is emerging and argues that the provisions of the EU treaties therefore apply. Her study further shows that resettlement has three goals according to the legal concept of the EU treaties: firstly, resettlement serves to protect refugees, secondly, resettlement must always be complementary to territorial asylum procedures, and thirdly, resettlement serves to ensure that the mechanism of responsibility sharing is fair. A resettlement system based on the Australian model would in any case not be compatible with the applicable EU constitutional law (Ziebritzki 2020). But the current EU resettlement law is also problematic in some cases under constitutional law. In particular, conditionalities that link the possibility of resettlement to increased border protection by the third country concerned do not comply with the EU constitutional requirements. In addition, there are other important unanswered questions, in particular the question of responsibility for the selection and exclusion decisions. Research shows that embedded in the basic structure of resettlement, construed as a mechanism of legal inclusion, are some mechanisms of legal exclusion. In particular, the conditionalities to prevent migration from third countries are often an inadequately visible exclusionary element. Often the Member States combine agreements to accept resettlement with qualifying prerequisites for the selection of persons or make them dependent on cooperation towards prevention of irregular migration.

Among the factors explaining the lack of attention to these factors in the public discourse and often also in the legal discourse is probably that resettlement represents the notion of inclusion so strongly that possibilities of exclusion are overlooked. Nula Frei and Constantin Hruschka have also pointed out that the more extensive protection concept of international protection in the law of the CEAS is undermined by the limited number of available places and the area of application for resettlement admissions, which is limited to refugees according to the 1951 Refugee Convention. Persons who would receive protection upon reaching the territory are excluded from this protection mechanism without the possibility of invoking protection under European law.

LAW AT THE BORDER The establishment, function, and effects of the EU hotspots at the EU's external borders show that the EU hotspots are designed as mechanisms of exclusion and in practice function as such by forcing people into camps under conditions that violate human rights. The EU's hotspot approach was one of the most important immediate responses of the EU to the so-called refugee crisis. The approach was presented by the European Commission in May 2015. In June 2018, the European Council proposed the so-called "controlled centres" and "regional disembarkation platforms" in third countries. The European Commission has followed up on these proposals.

In a study carried out in the WiMi Research Network, Catharina Ziebritzki and Robert Nestler analysed the original EU hotspot approach and its implementation on the Greek Aegean islands from a legal and sociological perspective. They supplemented the legal methodology with qualitative interviews with various people in the EU hotspots on Lesbos and Chios in order to be able to better document and understand the practical implementation of the legal requirements. The study pays particular attention to



the interaction between the implementation of the EU hotspot approach and the EU-Turkey Statement. The analysis shows that the EU hotspot approach, originally developed as a solidarity mechanism for an easier relocation of vulnerable persons, as implemented in Greece, does not help to improve asylum seekers' access to the CEAS. Instead, it has the opposite effect, namely exclusion. The resulting exclusion of asylum seekers from access to the CEAS must be understood at various levels, such as exclusion from access to international protection, from the rule of law, and from society.

In addition to the problem of the faulty construction of the EU hotspots on practical and legal levels, the question of solidarity and possible relocation mechanisms arose very quickly. Despite or even because of the majority decision of the Council to relocate up to 160,000 people stranded in Greece and Italy with a high chance of recognition among other Dublin countries by means of a quota system, the intra-European relocation approach always worked stronger under pressure. Based on the September 2017 decision of the CJEU against Hungary and Slovakia on "relocation", Luc Leboeuf shows that the envisaged compulsory relocation of clearly vulnerable persons was subject to (and not equal to) the challenge of national identity politics in addition to challenges posed by numerous practical difficulties (Leboeuf 2018). Among other things, with the need to maintain their national identity, Hungary and Slovakia refused to accept any additional asylum seekers to relieve Greece and Italy, and sued against the agreed terms of relocation.

Despite this clear finding, the current proposals for a reform of the CEAS continue to (and even increasingly) rely on these elements and thus already carry the potential of their failure, as Constantin Hruschka predicts in the outlook of his research on the reform process (Hruschka 2018). In another study, Catharina Ziebritzki offers a detailed analysis of the proposals of the European Council of June 2018 for the future reorganization of the hotspot approach, drawing on the experience gained from the implementation of the hotspot approach (Ziebritzki 2019). Building on the earlier analyses, it shows that even the new approach of setting up refugee camps and the processing and handling centres at the EU's external border cannot improve access to the CEAS. At the same time, it shows that the new hotspot approach, unlike the approach from 2015, is based on the EU-Turkey Statement, and the associated expectation that it will be easier to organize return or deportation from the Schengen Area, is already conceptually based on marginalisation/discrimination and thus on exclusion, since the responsibility must usually be transferred to another state that is not a member of the European Union.

In this context, the question arises as to which actors are legally responsible for the exclusionary acts. The key issue here is whether the EU is (partly) responsible for violating the individual rights of asylum seekers in EU hotspots, in particular the fundamental rights, due to the administrative commitment of the European Commission and the EU agencies, EASO¹¹ and Frontex¹². Catharina Ziebritzki shows that asylum seekers' access to effective legal protection is currently much more difficult. On the one hand, the factual circumstances make access to legal protection more difficult, for example, owing to the lack of the financial means for legal proceedings, as free legal support is available only to a limited extent in the EU hotspots. On the other hand, the unclear allocation of responsibilities in the EU hotspots means that the question of who should be held responsible in court is difficult to answer. In order to counteract the latter problem, Catharina Ziebritzki examines the EU hotspot administration in a paper to be published in 2020 that shows that EU liability law (Art. 340 (2) TFEU) has special potential for realizing effective legal protection in the EU hotspots (Ziebritzki, forthcoming 2020). In another previously unpublished work, she arrives at the conclusion that, under certain circumstances, the EU could be held liable for violations of fundamental rights at EU hotspots under EU law on public liability (Ziebritzki, forthcoming 2020).

¹¹ European Asylum Support Office based in La Valetta, Malta.

¹² European Border and Coast Guard based in Warsaw, Poland.



The much described border shifting and the possibility of controlling the “migrant person” (Moreno-Lax 2018, Shachar 2020, Hess/Kasperek 2019) makes it possible to import these border practices into the Schengen Area. The control and exclusionary acts, which usually took place only at the border posts prior to 2015, have been imported into the Schengen Area, so that similar acts of exclusion are now also carried out after entry and in the course of the onward journey. This creates new areas of exclusion in many places within the Schengen Area. With this in mind, a WiMi partial study focused on identifying exclusionary effects within the scope of the Dublin procedure and the measures taken to enforce the allocation of responsibilities. These include, in particular, internal border controls, which, due to the way they work, form areas of exclusion with limited legal and practical controls in which European and national law are often in fact suspended because legal protection is not available or achievable.

In this context, Constantin Hruschka points out that space is being redefined in order to ensure that the intended exclusion is effective in practice. However, the space in question is not constituted at the internal borders in all cases; instead, the physical presence of an actor is required for this exclusionary space to be constituted. This space is created only through encounters with the agents of exclusion – in this instance, with the federal or state police. This contact or encounter, occurring often as a consequence of a control, are unmediated *moments of exclusion*, which, however, due to the legal requirements and the practical implementation of the controls, can only transpire in a certain (border) area. The legal fictional effect that redefines the space is brought about only through contact with the agents of exclusion.

SOMALI MIGRANT WOMEN - EXCLUSION AS A LEITMOTIF

In two projects that dealt with the situation of Somali migrants in Germany and the return migration of Somalis from Europe to East Africa (Kenya), Tabea Scharrer was able to show that important dimensions of exclusion are ignored when migrants from one country of origin are considered a homogeneous group. The experiences of exclusion alone are too different for that: they can begin before they flee, continue when they are in neighbouring countries or on a trip to Europe, and also continue in Germany or after they again leave the country. These ongoing acts of exclusion shape the representation of exclusion in critical ways. Somali migrant women in Germany and Kenya are exposed to multiple experiences of exclusion – in legal, socio-economic and geographical terms. This exclusion can start in the country of origin, and continues over time (which can add up). One’s “own” “community” can also be the agent of these exclusionary processes. Over the course of time, these diverse experiences of exclusion create complex “networks of exclusion” within which Somali migrant women build their lives. Certain experiences, such as racism and discrimination as a form of social exclusion, are perceived as particularly shocking by those affected in Germany. The bureaucratic acts of exclusion as a specific form of exclusion are particularly relevant in Germany.

The reactions to the experiences of exclusion give the migrant women a certain kind of capacity to act. They range from resistance to the system to the use of legal procedures that offer the chance to improve one’s own position, even if the system is aimed at exclusion, to removal through return migration. The exclusion is mostly a consequence of the legally and politically constituted migration regimes, both in the neighbouring countries of Somalia and in Europe. Tabea Scharrer shows that migrants can also experience exclusion within their own communities. While for many migrants the closeness to others with similar life experiences represents a protection against experiences of exclusion (emotionally as well as materially), certain minority groups can be subject to experiences of exclusion by these migrant “communities”. This applies, for example, to Somali women who move outside traditional gender norms or to members of groups that are considered minorities within Somalia. But also between those Somali migrants who came to Germany in the 1980s and 1990s and their children, and those who have increasingly sought asylum in Germany



since 2011, there are only few points of contact. Migration goes hand in hand with the renegotiation of values and norms in a certain ethnic group. In this context, among migrants, for example, in Germany, conflicts arise on the question of how "integration" or "adaptation" is possible without completely giving up one's own moral ideas. This negotiation process is also determined by the extent to which one's own future is seen in Germany – here, in turn, the experiences of exclusion play an important role. Asylum seekers and refugees from one country cannot be treated as a homogeneous group, as they come from different parts of heterogeneous societies and are thus characterized by very different educational experiences and socioeconomic structures. There are also big differences in terms of migration experiences, transnational networks and expectations or goals with regard to life in Germany (and the will and the ability to realize them).

The high financial and social costs of returning have the effect that migrants, in particular those who, on the one hand, have resources and financial security and, on the other, have European citizenship, return to East Africa. Kenya is often the place of return because more security can be expected here than in Somalia and at the same time it provides a good infrastructure. In the meantime, at least two different milieus of returning migrants have developed in the larger Kenyan cities – those who want to maintain a more cosmopolitan lifestyle (a combination of being European and being Somali) and those who prefer to focus singularly on a Somali (and often religioncentred) lifestyle. They settle in different residential areas and send their children to different schools, which in turn creates a demarcation. The children of these returning migrants born in Europe often strive to go back to Europe after completing their schooling.

The study of migrant "communities" shows that the intended effect of the legislative activity does not play a role in many exclusionary processes and that the concept of exclusion would have to be thought out more broadly in policy-making in order to be able to be impactful on political decisions and legal changes.

The CJEU case law on the Dublin procedure, which ensures, since 2016, that asylum-seekers are legally empowered¹³ to resort to legal measures to counter acts of exclusion, best explains the conditions for the emergence of these mechanisms. This increasingly successful *reaction to exclusion* has given rise to policies, practices, and legislative proposals designed to undermine the empowerment of the individual.

Constantin Hruschka shows that the regulatory discourse, which he calls the "mainstream" of the migration discourse since 2016, aims to undermine the increased chances of successful judicial protection at the political level by restricting access to legal remedies. As a result, protection-oriented fields of action for actors who want to allow *reactions to exclusion* to take effect are considerably restricted. The narrative of the failure of the system serves as the most important instrument to justify these supposedly pragmatic solutions that shorten legal protection.

In addition to the question of legal enforceability, the extent and the effect of the exclusion are also determined by the support networks and community relationships. Their structure and scope are primarily defined by the scope of action granted (e.g. in the context of sea rescue or the (often restrictive) access to the AnKER centres).

¹³ In 2016, the CJEU for the first time explicitly recognized the subjective rights of applicants in the Dublin system, which was understood by the member states as (previously exclusively) intergovernmental.



3.1.b. Priority of national solutions in law and practice

LEGISLATIVE HYPERACTIVISM The possible effects of the legislative measures taken by the federal government since 2014 to deal with the so-called "refugee crisis" on the rights and well-being of people from the asylum sector were an important research focus and key to understanding the local implementation and transformation processes detailed below (see 3.2.). In its response to the "migration crisis", at the latest following the failure of an unanimous solidarity and relocation solution in autumn 2015, Europe presented itself as increasingly divided and therefore unable to find a workable compromise or settlement. Infringement proceedings initiated by the EU Commission and numerous CJEU rulings were unable to stop or reverse this tendency towards conflict (Hruschka/Progin-Theuerkauf 2020). On the contrary, the division on migration issues is so deep that a constructive discussion among the member states seems barely possible at the present moment despite the efforts of the EU Commission with its New Pact on Migration and Asylum¹⁴ of 23 September 2020. There was only agreement (largely) on the tendency, also addressed in the WiMi study, to want to hand over responsibility for refugee protection to third countries (see above). Accordingly, reforms in this area, such as the new visa regulation and the new legal framework for border controls as well as for border guards and coast guards ("Frontex"), could be completed quickly, and move on to the next reform phase.

The quick proposals for changes to the CEAS were launched in May and July 2016 in response to the perceived pressure to act before the previous phase of implementation could be completed or evaluated (Thym/Tsourdi 2017, Hruschka 2018). In essence, these proposals did not aim at asylum and residence regulations, but rather at a more efficient and binding European refugee quota policy, and have largely been blocked since 2016, in particular due to disagreement between the member states. The blockade of the CEAS reform process at the European level has created political leeway for the national legislature in this area. With reference to singular events, such as the assassination attempt on Berlin Breitscheidplatz or the "Cologne New Year's Eve", the legal framework, which was perceived as inadequate in terms of regulatory policy, was incrementally modified by the legislature to allow the use of the residence and asylum law to prevent crimes and more effectively enforce existing obligations to leave the country. In conjunction with the alleged loss of control, a motif that remains strong in the public discourse and in the legislative materials, along with the overburdening of the administrative structures in the initial phase, this situation in Germany led to an intensified and, above all, accelerated response of the legislature, which opposed the wave of refugees, as portrayed by the media, with a wave of legislation. Since autumn 2015, the legislature has passed more than thirty-five amendment laws to the Asylum and Residence Act, which generally resulted in changes to a large number of individual norms (see for example the analysis by Kluth 2019). In their study, Constantin Hruschka and Tim Rohmann show that this "hyperactive legislative activity" has rendered the system significantly less coherent. On the basis of the norms that have been adopted as well as the legal materials and parliamentary discussions, they argue that the political motivation behind the changes can essentially be traced back to five main areas of legislative activities, although in some cases these are diametrically opposed. These areas are the promotion of integration, simplification of administrative processes, reduction of false incentives (especially so-called pull factors), simplification of deportations and combatting security threats more effectively. They show that, since the beginning of 2016, the focus in Germany has shifted from a management approach that was geared towards coping with the rapidly increasing numbers in the short term to one that focuses on return, securitization and "combating abuse". As a result, the German legislators have implemented an exclusion-paradigm which, over time, has gradually replaced the previous tentative inclusion policy for all people who have not (yet) positively identified a need for protection.

¹⁴ See COM(2020) 609 final and related proposals for legislative acts as well as the communications by the EU Commission.



The state, and in particular the legislature, acts as an agent of exclusion. Numerous exclusionary mechanisms can even be observed in areas devoted to promoting integration of people in need of protection. The opening of the labour market and the integration courses for asylum seekers, in 2015, was subsequently made dependent on the proof of the so-called “good prospects to remain”, which excludes a large number of those seeking protection from access to these resources. This exclusion paradigm is particularly vividly on display with regard to people from safe countries of origin, for they are completely excluded from the labour market and integration courses and remain in initial reception centres until they are deported (see below). In addition, since 2016, only people who are granted constitutional asylum or refugee status are allowed to bring their family members to Germany, while all others can only hope to benefit from the humanitarian exemptions. In addition, the legislature has greatly expanded the sanctions (i.e., reductions) in social benefits and severely restricted the freedom of movement of people seeking protection through the regular housing obligation in the initial reception facilities, which has been extended to 18 months. The only exceptions here are families and groups in particular need of protection, which effectively excludes “healthy young men” (characterized in the public perception as a threat posed to their own security by migrants).

The areas of exclusion (labour market, social benefits, freedom of movement, family life and integration offers) have been deliberately chosen to intervene in central areas of private life, and thus minimize any pull factors, and to preserve the “deportability” of the person concerned. In this context, the possibility of legal reaction of the affected persons has been restricted to exclusion. In the AnKER centres (and the facilities with the same function), access to independent advice or support is severely restricted, which also has a significant impact on effective access to legal protection. In the course of a planned deportation, publication of deportation dates is forbidden to prevent, to the extent possible, spontaneous individual reactions such as “going into hiding” or in advance mobilizing acts of collective support and resistance. The legislation, that is often heavily symbolically charged, significantly reinforces representations of exclusion, as exemplified by depictions in the examined materials of certain groups of people as not belonging, which go on to set reference points for a permanent as well as socially effective exclusion.

Against this backdrop, “legislative hyperactivity” has two major consequences:

The large number of new norms leads, on the one hand, to a perception of a lack of control in public discourse but, above all, in political discourse. On the other hand, a system is being rendered incoherent, allowing the legislature ever more to convey the message that those who have not (yet) established a legal residence are to be excluded.

In practice, as shown by other findings of the WiMi study presented below, the “flood of laws” generated a great deal of uncertainty not just among the people concerned but also among actors responsible for implementing these laws. At the same time, there is considerably more room for manoeuvre for the authorities implementing the law, in particular owing to the unclear and sometimes contradictory requirements. As the studies carried out by the Max Planck Institutes in Halle and Göttingen show, many administrations therefore resort to “pragmatic solutions”, because the legal norms are perceived as complicated and flawed (Schader 2019). This scope for practical action, in turn, means that mandatory legal standards derived from international and European law (and even from national law) often do not feature in a significant form in practical application and thus further restrict the control function of legal regulations in the area of migration.



CHANGES IN THE ASYLUM LAW IN GERMANY

A compilation made by the Max Planck Institute for Demographic Research on the historical development of asylum legislation in Germany from 1950 to 2018 shows the contested fields of legislation. The compilation documents a high number of legal changes, which also shows that this flood of laws in the asylum area is not an exclusively contemporary phenomenon. Rather, there has been a direct correlation between the increase in asylum numbers and the increased legislative activity in the asylum area since the 1980s (Becker 2017). The changes often focus on questions of status and family reunification. This also makes it clear that the increased legislative activity since 2015 has historical forerunners and, in the asylum debate, the legislature often very quickly comes to rely on (alleged) tightening and on sanctions as tools of crisis management and deterrence. A historical classification is necessary to understand the legislative fields of activity and to analyse the concrete changes respectively introduced, since it is important to identify the quasi traditionally controversial questions in legal culture, such as on the legal protection and family reunification issues, as well as solutions that have supposedly already been tried and tested (and often without success) and could be avoided in the future.

The WiMi Research Network paid special attention to the establishment of AnKER centres as concrete and legal areas of exclusion. The AnKER centres represent a politically negotiated administrative reaction of the German state to the sudden increase in asylum applications, especially in 2015/2016. In order to ensure that the administrative deficits identified in this period will be remedied in the future, asylum procedures are envisaged to be brought together by bundling various official competences more efficiently at one location. With the Coalition Agreement [*Koalitionsvertrag*] of 2018, the federal government envisaged the concept for AnKER centres as a political goal for a more efficient handling of asylum procedures in the future and designed it as a pilot project. Due to the different federal and state competencies, the concept was and still is politically controversial. Miriam Schader and Tim Rohmann, together with Sibylle Münch from the University of Lüneburg, demonstrate in a study that was carried out before the centres were introduced, which thus mainly deals with the discussed ideas, precursors and findings about their effectiveness, that the function of the so-called AnKER centres should not be limited to just organising accommodation, as they are central to accelerating asylum procedures. Rather, the spatial exclusion in these centres, for which the experiences in the Bavarian departure facilities served as a 'blueprint', is justified with the aim of processing asylum procedures "quickly, comprehensively, and in a legally secure manner" (Coalition Agreement 2018: 105) and thus relieve the municipalities of excessive burden. The article shows that the lopsided orientation towards the primacy of efficient administrative procedures, on the one hand, confronts constitutional and European legal concerns and, on the other hand, ignores the findings of more recent social science research with regard to the lasting negative effects of accommodation in isolated collective accommodation. From this, the article draws the conclusion that there are considerable doubts, both legally and in terms of integration policy, about the introduction of the AnKER centres countrywide, and casts doubt on whether the objective of accelerating the procedure, which is ostensibly mentioned as a motive, is the central underlying motive for the introduction of these centres. Whereas history shows that the accommodation of asylum seekers in camps in Germany, especially since its expansion in the 1980s, was primarily intended to deter further entry, and current political statements signal that the AnKER centres are part of a series of deterrent measures introduced by the state that allow inappropriate attempts to control fleeing by minimising the presumed pull factors and expanding the frequency of state controls.

The AnKER centres were launched in 2018 as a pilot project and first introduced in Bavaria and the Saarland, at the outset without any legal changes, for certain legal changes related to the AnKER concept were introduced only with the migration package of 2019. These changes include, in particular, the comprehensive advice on asylum procedures introduced by BAMF (Section 12a of the Asylum Act), the extension of the housing obligation from six months to 18 months (with the exception of



families) and the associated mandatory exclusion from access to the labour market (Sections 47 and 61 of the Asylum Act). Due to political and linguistic compromises, the introduction of AnKER centres and the so-called functionally equivalent facilities nationwide¹⁵ has meanwhile evolved (BAMF 2020).

Tim Rohmann's 2019 study offers a detailed discussion of the ensuing legal challenges. He comes to the conclusion that the centres have encountered considerable legal challenges, both in their establishment as a form of mixed administration and in the concrete implementation known thus far, and some unresolved questions remain, in particular about the protection of vulnerable persons. He asserts that efficiency cannot be equated solely with the shortest possible processing time for asylum applications, since only high-quality procedures can actually enhance the levels of efficiency and cost savings. In order to prevent a perfunctory transfer of the individual assessment procedure, which is legally stipulated, from BAMF to the administrative courts, the specific conception of the AnKER centres must ensure that framework conditions created for a comprehensive hearing and decision take into account the rights of the affected persons, to resolve the apparent contradiction between the administrative-economic interest in accelerated procedures and the guarantee of constitutional standards. He states that the majority of the goals pursued using the AnKER concept can in fact be implemented on the basis of the applicable law, but points out at the same time that, based on previous experience, legal standards observed in the facilities do not meet the minimum requirements. He therefore advocates for an openness on the part of political decisionmakers to alternative concepts, which may be better suited to alleviate the potential for conflict in mass accommodation and the difficulties associated with the central administration of a large number of – in some cases – traumatized people. In concurrence with the findings of Miriam Schader, Tim Rohmann refers to the research findings of other studies (Bogumil/Hafner/Kastilan 2017, Ritgen 2019), which show that the municipalities have increased immigration due to the variability in the structure of admission and have enhanced integration structures. From this, he draws the conclusion that decentralization options should also be considered when realigning administrative processes.

Using this legal analysis and his own research, in particular on the European and national regulations, Constantin Hruschka prepared an expert opinion on the legal and practical challenges of the AnKER centres from a legal perspective for a constitutional committee hearing of the Bavarian state parliament in September 2019, in which he invokes the abovementioned findings. He specifically refers to the international and European legal standards that are not only applicable in light of the Europeanization of asylum law and the legal requirements for return decisions as well as their implementation in all phases of the stay in the AnKER facilities but are also binding for the administrative practice. He maintains in particular that AnKER centres not located on the external borders of the Schengen Area must not be operated according to the special rules for transit zones and border procedures, but that in order to achieve the objective of accelerating the procedure, the centres must be designed as reception facilities, so that restrictions on freedom are only legal within the framework of the minimum necessary procedures. As the AnKER centres focus on arrival and return processes, from a legal point of view, there is a risk of mixing up procedural objectives with a premature focus on a possible return procedure during the asylum procedure. Constantin Hruschka and Tim Rohmann see the conceptually designed potential for confusion with respect of these two elements as the central legal weakness of the concept of the AnKER centres and advocate a clear separation of these two components.

¹⁵ Facilities with the same function are facilities in which essential parts of the AnKER concept are implemented. The term was coined in order to give federal states, which pursue different approaches in the admission, nevertheless the possibility to implement adjustments to the asylum procedure (for which the federal government is responsible) and at the same time to politically defuse the conceptual dispute, as the stance of some federal states against the AnKER centers was very strong.



PRACTICAL EFFECTS OF THE CHANGED LEGISLATIVE FRAMEWORK The idea that the (national) legal framework must be more firmly standardized for the purpose of standardizing the practice is met with very different conditions, and not just for accelerating procedures and promoting return. As the legal analysis of the changes has shown, the increased legislative activity (“legislative hyperactivity”) is accompanied by increased levels of fragmentation, as the legislature did not pay sufficient attention to coherence. In three substudies, the initiative has approached the practical effects of the changes in a typified manner, by carrying out research on three categories that result from legal attributions, namely vulnerable persons, persons without a right of residence, and persons with “good prospects to remain”.

In the policy paper that Luc Leboeuf and Constantin Hruschka developed in collaboration with the Max Planck Institute for Demographic Research, they investigate the question of whether the term “vulnerability” brings added value to asylum and migration policy. They answer this question in the affirmative in reference to the contextualization that this enables, but also point to the hidden exclusionary effects of such a categorization. Since all migrants, asylum seekers and refugees can be viewed as vulnerable to a certain extent, concentrating on certain “vulnerabilities” necessarily means establishing a hierarchy or deciding to classify certain “vulnerabilities” as more important than others. In addition, every categorization carries the risk that the individual assessment of the specific needs of individuals is no longer performed with necessary care. The WiMi study therefore comes to the conclusion that while the term enriches the ongoing political debate about new forms of global governance, people who do not meet the characteristics ascribed to the category might lose access to certain rights and be excluded. The relatively open definition of the term “vulnerability” has the same effect: It is possible to use a more protection-oriented term, but the tendency points to a restrictive interpretation that creates areas of exclusion and thus protection gaps. During a presentation of the conclusions at an experts’ meeting held in Brussels in October 2018, the experts there agreed with the authors that a more systematic understanding of vulnerability was necessary to prevent government authorities, courts, municipalities, civil society, and other actors from intervening with their own definitions, owing to which the concept could be applied inconsistently in practice. Therefore, more research would be needed for a better understanding of vulnerabilities, especially in terms of definitions and from a quantitative point of view.¹⁶ The right levels of statistical infrastructures would allow an analysis of the consequences of risk factors in all phases of the migration experience. In addition, it is necessary to understand migration processes more holistically, and to take a closer look at the coping strategies and at how these strategies are adapted within the relevant legal framework in response to the exclusionary processes described. When using the term “vulnerabilities” as a guiding factor in the area of migration management, the hidden, exclusionary effects must be taken into account in order to assess the needs resulting from vulnerabilities on an individual basis and to act accordingly in a protection-oriented manner. In this regard, research can contribute in particular to clarifying the conceptual bases, and offer support by creating quantitative data and assessing the effectiveness of existing policies.

In her overview of her research on people staying irregularly in Germany, Daniela Vono de Vilhena of the Max Planck Institute for Demographic Research points to the absence of databases that are significant not just conceptually but also with regard to data collection, in particular for undertaking a comprehensive analysis of the situation of people without a right of residence in Germany. Alluding to possible categorizations and the difficulties associated with that for quantitative surveys, she points to the fact that – with the exception of the 2016 refugee survey – information about which individual

¹⁶ The project “Vulnerabilities under the Global Protection Regime: How Does the Law Assess, Address, Shape and Produce the Vulnerabilities of the Protection Seekers?” Funded by the EU program “Horizon 2020” and the Canadian Research Council SSHRC/CRSH (VULNER) at the Max Planck Institute for Social Anthropology (MPI) in Halle/Saale is a direct result of this finding. VULNER combines the analysis of the legal and political framework conditions for migration with empirical case studies and examines how nine countries in Europe, North America, Africa and the Middle East deal with the vulnerability of migrants. VULNER’s research group leader is Dr Luc Leboeuf, who previously researched in the WiMi Research Network.



characteristics are documented in the individual information sources and the structure of the data sets that are not publicly accessible. Closing this glaring research gap – which will entail considerable ethical and methodological research problems – requires an even closer dialogue between scientists and the BAMF, the responsible governmental authority which has most data sets at its disposal, especially for data collection and analysis and to improve the research quality. Vono draws attention to the fact that with the 2016 New York Declaration on Migration and Refugees, all member states of the United Nations had declared their commitment to monitoring whether migrants are “left behind” and thus are excluded from access to fundamental rights. In order to achieve this goal, the author believes that it is necessary to collect data on work, income, education and health and their respective relation to migration status. The lack of this data also influences the quality of the secondary literature, which reflects the poor data availability and the stringency of data protection regulations. In this context, it is therefore necessary to continue evaluating the extent to which quantitative methods and large amounts of data can be used when it is critical to guaranteeing the confidentiality and respect for the privacy of the respondents. Overall, very little is known about how people without regular status organize their daily life and to what extent basic human rights (such as the right to health) are guaranteed for those with non-status. Most studies to date have focused on employment issues and access to health and education from a qualitative perspective, and look at the particular vulnerability associated with a life of illegality under residence law. In contrast, the situation of families where one or more family members live irregularly gets scant coverage in studies undertaken in Germany. While previous research has documented the importance of social networks in supporting irregular migrants, what is important and generally remains neglected as well is the impact of irregular status on family relationships (including transnational relationships), on the likelihood of separation or the impact on the living conditions and the wellbeing of family members. Earlier research suggests that lack of residence status significantly affects family relationships (Sigona 2012). Daniela Vono de Vilhena points out that future research must address the relationship between existing legal regulations and family constellations in situations characterized by illegality under residence law. In addition, she draws the conclusion from the available data and studies that the authorities still have a long way to go in terms of guaranteeing public services, compliance with welfare state regulations, and the protection to which undocumented people have a guaranteed right under human rights law regardless of their place of residence.

Virtually on the other end of the scale, designating the high importance of the legal status, are asylum seekers, “who can be expected to be legally and permanently resident.” This legal formulation from Section 44 Paragraph 4 No. 1 lit. a of the Residence Act describes a situation that is also referred to as “good prospects to remain”. People with such “good prospects to remain” are, by way of example, granted greater access to the labour market and to integration services, in particular to integration courses according to Sections 43 ff. of the Residence Act even during the asylum procedure. At the same time, the expectations and experiences of the newcomers are sometimes very different and – from a legal perspective it can be said that – how legal measures in this area affects the newcomers diverges accordingly.

In the study “Qualifications, Potentials and Life-Courses of Syrian Asylum Seekers in Bavaria”, May Khourshed, Romuald Méango, Christian Hunkler and Axel Börsch-Supan investigated some of the resulting questions about Syrian refugees at the Bavarian reception centres. This study, which was not funded by the network, inspired the survey on the expectations of Afghan migrants, which was carried out as part of the WiMi Research Network. Because of its local focus, the study is presented in more detail below (3.2.b).



INTERDISCIPLINARY RESEARCH WITH QUANTITATIVE DATA

In the project carried out jointly by the two departments of the Max Planck Institute for Social Law and Social Policy by Christian Hunkler, May Khourshed, Romuald Méango and Diana López-Falcón as well as Julia Hagn, Constantin Hruschka and Tim Rohmann, three disciplines – law, economics and sociology – featured in three different ways: 1) Legal knowledge as an auxiliary tool to obtain well-founded legal categories for a survey and to obtain relevant information against the background of the existing norms, 2) economic and sociological perspectives and knowledge as an auxiliary tool to identify relevant questions and analytical tools for migration law research with regard to the application of legal norms, and 3) application of legal, economic and sociological methods and concepts in order to expand the relevance of the quantitative study. The exclusion concept used by WiMi was taken as the basis and coupled with a more specific research question about the role and influence of the legal status on integration results and activities of individuals. Based on the legal analysis that there is a status fragmentation, which from a legal point of view has a detrimental effect on the overall systemic coherence (see also Hruschka and Rohmann 2020), one of the questions that should be answered is to what extent the legal status actually has an impact on the situation of the Afghan migrants in terms of the outcomes they set out to achieve and receive. For this purpose, the MEG survey (Survey on Migrants' Expectations in Germany) surveyed the expectations of migrants in Germany, as well as their legal status and their integration results and activities (here: employment on the labour market, access to education and social services, vulnerability, participation in integration courses and health). In Berlin, Hamburg and Munich, 1,023 adult Afghan nationals who had come to Germany after 2014 were interviewed. The operationalization of the central concepts allows the reconstruction of information about the type of entry into Germany as well as about the current residence status of the respondents. In this way, essential methodological difficulties in the investigation of the influence of precariousness or (relative) security on the participation expectations and efforts of refugees in Germany can be overcome in an innovative way.

A first as yet unpublished evaluation of the MEG survey shows that there is a clear connection between the official recognition of vulnerabilities and actual access to legal residence, while undetected vulnerabilities reduce the chances of legal residence in comparison to non-vulnerable people.

From a methodological and conceptual point of view, the more general conclusion that can be drawn is that to meet its requirements interdisciplinary research requires additional efforts, in effect to develop a common framework and to agree on common research questions. What has been achieved through the cooperation in the development of research questions, the survey and the mutual information and explanation of the basic disciplinary rules, is a conceptual, interdisciplinary examination of the applied concepts. Combining several disciplines has at least doubled the number of possible questions that could be included. Between sophisticated legal nuances and the standards and limits of quantitative research, finding a working balance between high quality data collection and sufficient detail for all disciplines involved has proven to be the greatest challenge. The pretest phases comprised tests on possible biases, on possible difficulties with the comprehensibility and answerability of the questions, on improving the selection of the interviewed persons and on the length and duration of the survey. In addition, the traceability of the Dari and Pashto translations of the questionnaire was tested and NGOs and key players in all three cities were sensitized to that effect. From the pretests to the completion of the field research, the survey took a total of 21 months.



From the legal studies perspective, the studies presented show that the practical effects of legal requirements can be very different, even in supposedly homogeneous groups. This also shows that the practical effect of a legal change is strongly dependent on the implementation practice and the commitment and support environment of the affected persons and this again points to the limited steering effect of legal changes in the migration area. While the legal construction of different groups of people, linked to the good/bad prospects to remain, for example, is intended to prestructure legal decision-making practice and thus stabilize it, the specific situation of people seeking protection depends largely on other political and social determinants. From a rule-of-law perspective, knowledge is never uncritical, as decisions do not follow a uniform pattern and therefore, among other things, the risk that they will be perceived as arbitrary remains. In this respect, the internal legal effects associated with the discursive shift from a “welcome culture” to migration being perceived as a problem can be demonstrated in the legislation, but their practical effectiveness cannot be effectively documented with the existing legal categories and methods.

3.2. The complexity of inclusion and exclusion in the local reception of asylum seekers and in the experience of refugees

Accepting asylum seekers in Europe usually means first admitting them into the national welfare state.¹⁷ In many cases, asylum procedures, admission procedures and access to the labour market are regulated such that asylum seekers are more or less compulsorily dependent on state benefits, at least temporarily – often despite every intention of working, looking for their own apartment, or despite good professional qualifications and sufficient language skills. In Germany, too, asylum seekers are, at least initially, automatically welfare recipients. The central moment for the admission of refugees in Germany is therefore initially their *inclusion* in and by the state. However, this inclusion in the form of accommodation, social benefits, basic health care, training,¹⁸ care and counselling takes very different forms and is associated with multiple exclusionary processes, some of which are severe for the people concerned.

In the following, the ambivalence of the role of the (local) state in accepting refugees as the *actors of inclusion and exclusion* is explained. In addition, the WiMi study in the social sciences shows, using qualitative research, to what extent the functioning of the welfare state can have the effect of excluding people from basic amenities – an experience that all welfare recipients share, but the effects of which can potentiate and radicalize in the case of refugees.

In addition to these intended and unintended acts of exclusion by state actors, various places, moments or phases and areas of exclusion also play a central role.

The spatial exclusion and isolation of those seeking protection through accommodation in remote collective shelters or through extensive restrictions on access for outsiders to these shelters is relatively well researched (e.g. Baumann 2019; Pieper 2013; Adam et al. 2019). The problem of housing accommodation becoming significant places of exclusion is particularly evident in the case of the AnkER centres discussed above. So far, however, there is little research on how the interaction of

¹⁷ Or it must at least be included in a parallel care system for asylum seekers in the asylum procedure, as is the case in Germany.

¹⁸ At the latest after a three-month stay in Germany.



these spatial factors with other factors can transform accommodation arrangements that are spatially remote into well-integrated places of inclusion and, conversely, how accommodation facilities closer to the centre become places of exclusion and marginalisation.

On the other hand, WiMi relies on several partial studies to show that – and how – spatial and social factors overlap, influence one another, and decisively determine if accommodation centres have inclusionary or exclusionary effects. Here it becomes clear, once again, that marginalisation and exclusion are seldom absolute, since exclusion in one area – for example, in a communal accommodation located many kilometres away from the nearest infrastructure and thus with less access to this infrastructure – does not necessarily amount to a lack of access to resources in other areas. The extent to which the state can influence this mode of action is also clearly visible here: While one municipality decides, despite a chronically strained budget situation, to link the shelter located in the periphery to the city centre with its own, locally financed bus line, another decides that only young men should be quartered in a shelter located in the commercial area close to the centre, which noticeably reduces the attractiveness of the shelter for recruiting voluntary helpers.

Simultaneous participation and exclusion as well as inclusion and exclusion can be observed not only in the area of accommodation. For they can also occur in other areas: As the ethnographic research within the framework of WiMi shows, for example, certain forms of protection can, in an almost absurd way, transport people into “intermediate situations” that simultaneously, and in similar ways, are radically characterized by both inclusion and exclusion. This becomes all the more obvious in instances when people are protected from deportation because they are pregnant or seriously ill, for which reason they would be “tolerated”. The protection status changes within a few weeks of the birth of the child or when the sick recover. Should a seriously ill person hope for recovery or should they fear protection from deportation?

Here the central importance of temporality, i.e., of *moments of exclusion*, again comes to the fore. Time plays a key role in determining the involvement and exclusion of refugees. This can be seen especially in the case of unaccompanied minor asylum seekers whose legal status can change radically on their 18th birthday. While the German legal system confers new rights and obligations upon German citizens once they turn 18, the main question for many unaccompanied young refugees at this point is: will I be deported now? As the examples outlined here show, in Germany, the local authorities are responsible for the implementation of many social policy measures and thus for the concretization of the welfare state. Municipalities – cities, districts and municipalities – carry out and implement the decisions made at the federal level, and in some cases also at the state level. In the specific case of the admission of refugees, especially once they are assigned to communities from the initial reception facilities of the federal state, the local authorities are responsible for their accommodation and care during the ongoing asylum procedure, for other social benefits due to them under the Asylum Seekers Benefits Act, as well as for providing basic health care, schooling, childcare and much more.

While the previous section concentrated mainly on the national and the European level, this section goes into more detail on the local as well as the individual level.

The WiMi study shows how the state is, on the one hand, a successful agent of inclusion at the municipal level and, on the other hand, how the actions and structures of the local government result in exclusion and marginalization. In a second step, the perception of state structures and actions is examined from the perspective of the refugees. It can be shown that even in situations where there is formal protection against deportation – and thus against return to potentially life-threatening situations – the fear of losing protection, or the consequences of the expiry of the temporary suspension of deportation, can have a massive impact on the lives of those affected.



Here, national and European as well as local decisions and structures have an impact on the individual level, once again resulting in the simultaneity of inclusion and exclusion already outlined, which can be observed in almost all areas.

THREE QUALITATIVE SUB-STUDIES

The first, ethnographic study was carried out by Magdalena Suerbaum and is based on field research in Berlin. The research for the study entailed extensive ethnographic fieldwork phases (2017 to 2020), in particular participatory observation, voluntary work in an initial reception facility, in a counselling centre, a project for refugee women with children, and assistance to those seeking protection on visits to government authorities, visits to the doctor, etc. as well as interviews with refugees, social workers and those responsible at different levels. Methodologically, another focus was on biographical conversations and interviews, which also included the experience of flight and escape.

The second and third partial studies, carried out by Miriam Schader and Shahd Seethaler-Wari, divert the attention from Berlin to Lower Saxony. This opens up an exciting contrast between observations in the city-state with over 3.5 million inhabitants and in significantly smaller individual municipalities in the territorial state.

The second partial study, carried out by Miriam Schader, compares two medium-sized cities and one smaller city, one in the south and two in the north of Lower Saxony. In order to counteract the "extreme-case bias" and the "big-city bias" that can be observed in many studies on local migration policy (Schammann et al.: fc.), three "normal" cities were selected. They are neither particularly large nor small, all located in one of the larger territorial states and they were not known for either a radically open nor a radically closed policy of accepting and including migrants at the time the case was selected. The focus of the study was on the municipal admission of asylum seekers in 2015 and thereafter, as well as on the structural changes in the investigated municipalities in the area of asylum, migration and diversity.

The third partial study, carried out mainly by Shahd Seethaler-Wari in close cooperation with WiMi and the WiMi researchers working at the same Institute and financed by the Volkswagen Foundation, focuses more specifically on one of the three cities in Lower Saxony and examines the living conditions of asylum seekers in several communal accommodations in the university town. This sub-study focuses on the interplay of different institutional arrangements and their effects on the inclusion and exclusion of asylum seekers in local contexts. Attention, on the one hand, is paid to the role of the operators of accommodation and on the other hand to spatial factors and their intersection with other potentially excluding factors.

The focus of both studies on municipalities in Lower Saxony makes it possible to keep the legal and political context "constant". This is important because the federal states try to largely determine the scope of the municipalities when it comes to accepting refugees. The states are responsible for the implementation of federal law, and the local governments are formally part of the states. In particular, laws, ordinances and decrees of the federal states can stipulate details of the implementation and thus give instructions to the local administrations for implementation (for further details see also Schader 2019, 383-386). Although cities, counties, and municipalities have a certain amount of discretion and also have to deal with legal and planning uncertainties, it is important to investigate cases within a federal state and thus within the same legal framework.

The data for the second partial study were collected through expert interviews with members of the three city administrations and volunteers over a period of three years (January 2017-January 2020). They documented – in retrospect – the experiences during the peak of the rapid immigration



of refugees as well as the changes in the administrative structures during and after this phase. In addition, the analysis is based on a corpus of primary documents published by the municipalities (including their integration concepts, reports on the reception of asylum seekers, local statistics, etc.), on media reports in local newspapers and on information collected during visits to relevant locations. The third study is based on extensive ethnographic field work phases between 2016 and 2019, i.e., on participant observation, volunteer work as a translator in the shelters/accommodations and interviews and informal conversations with refugees, social workers and responsible persons at different levels as well as extensive photographic documentation of the spatial conditions in and around the accommodations under study.

When the federal government decided in the summer of 2015 to not push back a larger number of people seeking protection despite their entry via other EU states as “Dublin cases” but instead to make use of the so-called sovereignty clause¹⁹ provided for in the Dublin Regulation, the German administration was ill-prepared on all levels. Despite the increasing number of asylum seekers since 2010²⁰ and the low number of applications in the 2000s, which was to be seen as an exception rather than a rule, the capacities of the state initial reception centres and municipal reception facilities were quickly exhausted. In spite of existing criticism,²¹ media and social science researchers spoke of a “crisis” of the state and the administration, or even of a “state failure” (see, among others, Hesse 2015; Hahlen and Kühn 2016).

However, the second WiMi sub-study in this area shows that the administration and the state were less in a crisis and more in a state of fundamental uncertainty. The interview data collected confirm that the level of uncertainty to be dealt with by the state as an organization has increased significantly in the short term, but that this was not a crisis in the sense of a “collapse” or “failure”. Rather, the state and administration have proven their efficiency, especially at the local level, where the refugee immigration is processed in large part, and successfully overcame the uncertainty caused by rapid immigration.

In 2015 in particular, municipalities had to accommodate and care for a large number of people at very short notice – in the municipalities under study, there were around 100 people per day during the peak period. In those municipalities, the available capacities in decentralized forms of accommodation were insufficient and larger communal accommodation facilities sometimes had reached their limit. In addition, during this period, the response of the local administrations had to be flexible and spontaneous, because in some cases the asylum seekers were sent directly from the border to the municipalities, without first being admitted to an initial reception centre of the federal state,²² and in some cases also without prior registration. Therefore, until the buses carrying the asylum seekers arrived, municipalities often had no clear estimate of the number of arrivals. They did not know how many single travellers and how many families with children would arrive, whether they would include people with special needs or those who were severely traumatized.

¹⁹ Cf. Art. 17 (1) of the Dublin Regulation, which makes it possible to examine every asylum application submitted. This possibility is known as sovereignty clause.

²⁰ According to the official statistics of the Federal Office for Asylum and Refugees, the number of first-time asylum applications made in the year had fallen since 1995 (for the period prior to that, only cumulative numbers of the first and follow-up applications are available) – from over 166,000 to around 28,000 applications in 2009. Since then it has continuously increased, and reached 100,000 in 2013 for the first time since 2001. In 2014, more than 173,000 initial applications were submitted, in 2015 just under 442,000 and in 2016 over 722,370 (BAMF 2019: 12; https://www.bamf.de/SharedDocs/Anlagen/DE/Statistik/BundesamtinZahlen/bundesamt-in-zahlen-2018.pdf?__blob=publicationFile&v=14).

²¹ In view of the political and legal situation in Germany, however, many scholars have called for a conceptual disarmament (cf. Becker/Kersten 2016).

²² As part of an administrative assistance procedure, among others, in 2015, the state of Lower Saxony sent refugees directly to the municipalities because its state-run initial reception facilities were overcrowded. Since these refugees had to be accommodated in addition to the asylum seekers who had been assigned there based on the quota allocated to the federal state, many municipalities resorted to emergency accommodation in gyms, etc.



In addition, as explained in greater detail above, the legal situation in the asylum area changed quickly, which made it more difficult for municipalities to deal with the refugee migration in the medium term. Although the municipalities are constitutionally part of the federal states, not all areas are regulated in detail through mandatory tasks or extensive decrees. On the one hand, municipalities must be up to date with the latest legislation and, on the other hand, they must independently develop local policies in many areas that are to be implemented. In an area that was already very complex and changed quickly, this represented an uncertainty factor that should not be neglected.

In addition, European and international political developments in the summer of 2015 were difficult to assess for individual municipalities: How much longer would people continue coming to Germany, especially via the Balkans? How many would stay in Austria, how many would travel to Scandinavia? Would entry into the EU be made more difficult? Would the EU agree to a new scheme to relocate asylum seekers? The municipalities also had to deal with this third uncertainty factor.²³

Nevertheless, contrary to what the media has sometimes suggested, the local administrations did not collapse. In cooperation with many volunteers, it was largely possible to avoid homelessness and provide the newcomers with essentials immediately.²⁴ All the municipalities under study were able to form crisis teams, initiate emergency measures and – with increased effort – find solutions at short notice.

However, how the situation in 2015/16 was being handled and how the admission of protection seekers was being planned, before long, began to vary significantly from municipality to municipality. Here it becomes particularly clear how the state is an agent of both inclusion and exclusion. The WiMi studies selected particularly for this purpose show that the inclusion of the newcomers continues to go hand in hand with diverse processes of exclusion. In addition, it becomes clear that the processing of welfare benefits for potential immigrants seeking protection is associated with analogous disciplining and exclusionary mechanisms, which like many socio-political measures, however, can take the form of structural violence in combination with an often uncertain legal residence status.

²³ See Schader (2020) on the concept of fundamental uncertainty, on risk, uncertainty and fundamental insecurity in the local reception of refugees and on the causes of the uncertainty experienced by municipalities in 2015/16.

²⁴ As already explained, the situation was different, especially in Berlin, since the State Office for Health and Social Affairs (Landesamt für Gesundheit und Soziales, LAGeSo), which was responsible for asylum seekers until August 2016, was actually overloaded to such an extent that people had to spend the night outdoors.



3.2.a. Municipal strategies for coping with insecurity: exclude or include

In the short term, the Lower Saxony municipalities investigated in the study relied on solutions to exceptional situations that are also used in other cases, in particular with crisis teams and teams that collaborate outside of their line of business, and often with great commitment to accommodate all people, to ensure payments due under the Asylum Seekers Benefits Act, and to coordinate the cooperation with volunteers. In their perception of the situation, however, they differ diametrically: One of the cities – a university town with over 120,000 inhabitants – asserts above all how significant the burden was and that the city successfully managed the situation, but this situation could not have gone on. In contrast, in the other two cities – a (former) industrial city with less than 100,000 inhabitants and a university town with over 150,000 inhabitants – in retrospect, the emphasis is predominantly on their performance and cohesion within the administration.

The main point here is that the three cities differ not only in their perception of the period between summer 2015 and spring 2016, but even more in their *medium- and long-term organizational strategies to cope with migration-related insecurity*. Two types can be identified thus:

1. Exclusion through externalization and
2. extensive local inclusion of refugees through administrative change.

The first city not only emphasized its limited capacity to accept further refugees, it refused in a clear act of exclusion to meet the relocation quota set by the federal state of Lower Saxony. Additional people shall not have to be admitted for a period that is determined in advance – and neither have they been. In addition to this clear *act of exclusion* and a transfer of responsibility to others – namely to the municipalities, which took in the people instead, and to the state government, which had to find a solution – the simultaneity of inclusion and exclusion can also be clearly observed here. The temporary, if not clearly delimited, phase of the exclusion of newcomers was at the same time a moment of pragmatic care and support for the people already there.

This act of completely excluding newcomers, which was at the same time a moment of at least limited inclusion of those who had already arrived, was accompanied by an extensive form of externalization of responsibility for immigration of refugees in the future. As the interviews show, from the point of view of the administration, the higher political echelons should have prevented the situation from persisting and those acting on the communal level therefore did not see it as their duty to maintain the local structures to ensure rapid accommodation of so many refugees. This is particularly evident from the stark reduction in the reception capacities since 2016 to the extent that, according to the responsible department head, these capacities will be exhausted with around ten new asylum seekers per week by mid-2020. The city's "integration office" has not been restructured either and currently offers a 50 percent position.

As the return to the status quo ante and the reduction in reception capacities occurred at a rapid pace, and investment in urban structures to promote "integration" were relatively low, important steps, which other municipalities have taken, to reduce – mainly planning-related – uncertainty and exclusion are lacking here.

In response to the "summer of migration", the two other cities examined here not only fundamentally changed their administrative structures for accepting and supporting refugees, but they also decided to create opportunities to quickly "ramp up" their reception capacities. Both have established new units within the city administration, with their own staff taking care of the reception, accommodation, and care of asylum seekers, not least offering support and advice after a change



of legal jurisdiction – for example, if the outcome of the asylum procedure is positive,²⁵ if the asylum seekers do not receive any benefits under the Asylum Seekers Benefits Act, but instead receive social assistance or unemployment benefits. In both cities, the areas of “integration” and “refugees” have also been merged.

The more industrial of the two cities obtained a stop on influx from the federal state in 2017, which meant that people whose asylum procedures were completed after 15 November 2017 could no longer be allowed to be relocated there. Thus, as in the first instance, this municipality relied on a strategy to reduce uncertainty based on exclusion and externalization – admitting no influx of recognized refugees from other municipalities in whose perception they were looking for cheap accommodation, or integration work, or wanted to benefit from local structures that had been put in place to facilitate migration. While this strategy to reduce uncertainty clearly had an exclusionary effect, it was linked to a coping strategy of allowing greater permeation and of local adaptation. The general structural and personnel specifications for admission of refugees and migrants were overhauled following the example of the larger university town.

Here, too, the simultaneity of exclusion and inclusion becomes apparent: The two cases presented above show that municipal administrations, in their attempt to reduce uncertainty for the city administration as an organization, can combine actions and strategies that are both exclusionary and participation-oriented from the point of view of the newcomers as well as from the point of view of other state actors.

HISTORICAL PERSPECTIVE 1: EXPERIENCES OF EXCLUSION OF EXPELLEES IN THE LARGE CHURCHES IN WEST GERMANY AFTER 1945

While the summer of migration often appears as a singular event in the media representation, it is important to place it in a historical context to gain a better appreciation of the consequences of the events that transpired. There are many possible approaches to this. The WiMi researchers chose to extend their perspective not only in terms of time, but also beyond Germany and Europe.

In her work, Soňa Mikulová examines the experiences of German expellees from Central and Eastern Europe in Germany after 1945 and in particular the ambivalent positioning of the Roman Catholic and Protestant Churches in this strand of history. Even though they played an important role in the inclusion of the newcomers, they were also agents and spaces of exclusionary and discriminatory practices. This is particularly relevant because the organizational form and functioning of the large churches were similar to that of the state as an “institution” in the Weberian sense, i.e., rendering them comparable in terms of their exclusionary practices with other actors of exclusions examined here in different historical contexts. What also makes this study particularly unique is that it includes people who do not differ from the majority of society in terms of their nationality, mother tongue, or constructed ethnicity, but who nevertheless experience othering and exclusion.

In 1945 and in the first years after the war, around 12 million Germans from Central and Eastern Europe fled or were expelled to Germany. While they were on a legally equal plane as German citizens, in practice they faced hostility from the local population. Against this backdrop, this WiMi sub-study analyses the role of the Catholic Church in the first decade of the arrival of the refugees and expellees in West Germany.

²⁵ At this moment, the obligation to live in the reception centre ends and access to the labour market becomes possible, so there is a central change from the Asylum Seekers Benefits Act, which is construed as an exclusion, to the welfare state structures of the Social Security Code (in particular II, VIII and / or XII) .



In a first step, the attitudes of local clergy towards German expellees that underpinned various forms of discrimination are examined. The study shows that its most blatant moments of exclusion (e.g. open agitation against newcomers, refusal to bury deceased refugees in the local church cemetery) were locally confined and of a temporary nature, and the situation abated after it had reached its peak – designated “refugee crisis” in 1945-1946.

Second, longer-term problems that persisted within parishes between the locals and the expellees are analysed. The admittance of newcomers to predominantly Catholic regions, where the expellees joined local church congregations, proved particularly difficult. Under the weight of their experience of exclusion and the pressure to adapt, many refugees left the church or participated in events and arrangements (pilgrimages, etc.) organized by other expellees. In contrast, many parishes in regions where the Catholics had not previously lived or where they had lived as a diaspora were more open to welcoming the refugees of the Catholic faith. At the same time, however, reverse acts of exclusion and experiences of discrimination on the part of the predominantly Protestant local community are also notable (e.g. refusal of or delay in the approval of church buildings).

Thirdly, the study examines not just the participation but also the experiences of discrimination of expellee priests and underlines, on the one hand, their own role in building new community structures as reactions to exclusion (marginalisation), and on the other hand the meagre support they received from local partners and church authorities, which can also be described as acts of exclusion.

While the focus in the present report is largely on the state as an actor or as opposed to refugee actors, the historical orientation of this WiMi partial study seeks to show that other collective actors – in this instance, the large churches in Germany – participated in the inclusion and exclusion of newcomers in a largely similar manner; in the case examined here, however, even if not to a comparable extent, definitely to a large extent.

Furthermore, it can be seen here that experiences of inclusion and exclusion are, on the one hand, time-specific and characterize certain moments of exclusion, but on the other hand, the simultaneity of different dimensions of inclusion and exclusion can be observed independent of time. Like the partial studies related to the period around 2015, this study makes it particularly clear that exclusion and participation can often occur simultaneously and side by side and – importantly – also occur and take effect in different directions.



HISTORICAL PERSPECTIVE 2: EMOTIONAL MEMORY OF PARTITION AND FLIGHT, PUBLIC HISTORY AND NATIONALISM IN INDIA AND PAKISTAN

While a large segment of the WiMi study concentrates on Europe, another historical work focuses on the memory, representation and emotional narration of the experiences of refugees after the partition of India and Pakistan in 1947. This WiMi partial study carried out by Deepra Dandekar, MPI for Educational Research, not only facilitates a comparison with Soňa Mikulová's research, but, like Mikulová's work, represents an important contrast to the WiMi study on the "long summer of migration" and its consequences in Germany, which is the main focus here.

Based on available documentation of oral narratives in Urdu, Hindi, Punjabi, and English, which were preserved in the archives as part of the public history of South Asia, this second historical WiMi study uses several case studies to focus on the question of what role emotional memories play in the migration and its retelling when writing the public history of "community" and "nation" in modern India and Pakistan. In addition, the study shows how the representation of the history of partition and the recurring references to it has become a metaphor for nationalism in the modern day and produced nationalistic differences between India and Pakistan within contemporary politics.

When refugees share their emotions and migration experiences in public history archives almost seventy years after the partition of India and Pakistan, they try to present a "reality" or "truth" that lies beyond the archive and thus contribute to the construction of a more diverse panorama on the sharing of emotions affecting the postcolonial historiography in India and Pakistan.

Since there is no single collective or individual emotion associated with the division, and since emotions are specific to each individual narrative representation in public history, the WiMi study emphasizes the importance of multiple "divisions" within the memory narratives that represent love for a nation-state (India and Pakistan) and pride in belonging to a community (Hindu, Muslim, Sikh) that are postulated as central to the modern historiography of migration. The marginalization of migrants who identify themselves as Hindus or Sikhs in India, and of Muslim migrants in Pakistan, play a central role in connecting the religious and national identity of the migrants.

Both WiMi studies, which are historically oriented, show that emotional memories are of central importance for understanding migration, exclusion, and their public representation. These emotional memories and their representation, in turn, contribute significantly to ideas about nation, community, justice/legality and international human rights. The WiMi study also shows how the rule of law and human rights in their current form are based on an emotional understanding of the past, and are supplemented by how migrants talk about, document, as well as remember and feel their past and diverse experiences of exclusion they are exposed to.

The historically structured WiMi sub-studies emphasise how important an historical-scientific classification and supplementation is – especially with a focus on (remembered) emotions – also to understand the legal and social-scientific research on migration and exclusionary processes. Without looking beyond the here and now and the emotions that memories of exclusion trigger, the significance of the present and future challenges can only be partially understood.



3.2.b. Housing accommodation: Between participation and isolation

The extent to which inclusion and exclusion are not mutually exclusive becomes even more apparent in the actual refugee accommodation facilities at the local level. Spatial and social factors interact here, so that differences in the context and local conditions of the “housing” impact the inclusion or exclusion of refugees very differently. The forms of refugee housing are widely debated. In many cases, experts and NGOs have called to decentralize refugee accommodation (see also the findings of Tim Rohmann’s study on the AnKER centres presented above), while states, municipalities and, in some cases, at the level of the federal state (see the introduction and mode of action of the AnKER centres), the administrative, economic, medical or social benefits of shared accommodation are emphasized (see e.g., the 2018 Coalition Agreement).

In cooperation with a project funded by the Volkswagen Foundation, WiMi shows that even community accommodation varies widely, so that the exclusionary or inclusionary effects differ in form and degree, notwithstanding the fact that what all forms of community shelters have in common is that the categorization underpinning their structure and function is firmly rooted in external criteria – e.g. age, family status, gender, language – which does not necessarily bear any connection to the needs of the respective residents (cf. Vertovec et al. 2017). This form of categorization is necessary for the welfare state to function and thus cannot be totally avoided. It works in very different ways for refugees: As the partial studies on housing accommodation show, families often benefit from being housed in facilities that are considered suitable for families, especially if they are also located in residential areas and have the support of willing volunteers. Accommodations located less than 20 minutes away from the city centre (via public transportation) can seem isolated if the area is unattractive and their residents are mainly young men.

The two WiMi partial studies described above and the partial study funded by the Volkswagen Foundation conducted research on or in more than ten accommodations in several cities in Lower Saxony and in Berlin. All accommodations were shared, but there was no emergency accommodation, such as camp beds in gyms or tents. In a majority of the cases, buildings had been converted into shared accommodation: These included a former school, a former institute, barracks that were partly no longer in use, a former day-care centre, and several industrial buildings. Some accommodations were also planned and built explicitly for this purpose. From this list, it is already clear that the selected buildings were variously suitable in terms of living conditions and were located in differently structured social spaces.

Accommodations also differed greatly in terms of how everyday life was organised. Two of the cities decided on one or more charities to operate their dormitories, while one hired a private operator. In Berlin, some accommodations are also run by charities and by private companies. (https://mbt-berlin.de/mbt/publikationen/Broschueren/9-MBT-Berlin-Haeufig-gestellte-Fragen-zu-Flucht-und-Asyl-in-Berlin_2017.pdf).

As the WiMi study and the Max Planck Institute for Research into Multi-Religious and Multi-Ethnic Societies show, an interplay of structural, spatial, and social factors determines the scope of the exclusionary and/or inclusionary effect of different types of accommodations. On the structural level, for example, the lack of cooking facilities or the possibility of centrally regulating light and temperature²⁶ can be experienced as a loss of independence, whereby even basic needs are met with external assistance over a stretch of months.

²⁶ In several accommodations in the city described first, ceilings for individual compartments in larger rooms or an industrial hall were dispensed with when converting commercial properties. This is faster, cheaper and makes it easier to comply with fire protection regulations. For the residents, however, it means that they can hear every noise from the neighbouring compartments, cannot turn off the light when they are tired, cannot turn off the heating, etc.



An even more important factor for enhancing the levels of participation (or for laying the basis for the exclusion) of refugees in accommodations are social contacts who help them to get acquainted with the surrounding area and with the German language, in order to facilitate visits to the authorities, to the doctor, to help with "paperwork", gain access to legal advice or help with translation and to prevent boredom and frustration. As has often been shown in previous studies, the location and accessibility of the accommodation – in the industrial park, in socially privileged or disadvantaged neighbourhoods, whether in remote locations outside the city or in the city – are of great importance. The question of whether NGOs and other actors offering legal advice can be active in the accommodation and whether the type of accommodation has an influence on the type or the rule of law of the asylum procedure is significant, as the WiMi studies on the EU hotspots and in particular on the AnKER Centres show. In addition, the studies of the WiMi Research Network indicate that the occupancy of the accommodation is also especially decisive: the sub-studies reveal that both gender-segregated accommodations and regular accommodations negatively impact those seeking protection that are perceived as difficult to integrate. When spatial factors are paired with selection, they can intensify in such a way that people are spatially and socially isolated – which they might not have been without the mutually influencing exclusionary factors. In these cases, the arrival in the city risks becoming a phase of non-participation, a significant moment of exclusion.

A comparison between the two temporarily furnished accommodations in the first city outlined here that are similar in size and proximity to the city centre make that adequately clear. While one was in a well-off neighbourhood, the other was in the industrial park, both could be reached in around twenty minutes from the centre. The residents of the first facility were mainly families, those of the other facility were exclusively single men. An unfavourable environment – with hardly any or no residential areas at all in close proximity – combined with the fact that the residents were all male asylum seekers resulted in minimal participation of volunteers, leaving the residents there feeling "isolated". On the other hand, there were so many more volunteers working in the shelter where the residents mainly comprised families that not only were they provided a variety of support options, but the offers and actions of the volunteers were also sometimes difficult to coordinate for the full-time employees. Whereas both shelters could be reached by bus, bicycle and even on foot, one was deemed "most central", the other one more "isolated" (cf. for more on this contrast, Schader/Seethaler-Wari/Yanasmayan: forthcoming). That physical location alone is not necessarily a decisive factor for that outcome is confirmed by a comparison with another shelter located in the smallest municipality under study. Although this communal shelter, which previously served as barracks, was more than ten kilometres away, enough volunteers were committed there to facilitate the integration of the residents into local society. This was achieved by dedicating a bus line to this destination, which enabled the residents of the former barracks to also use the downtown infrastructure. At the same time, the introduction of this bus line underlines the fact that spatial proximity or remoteness often takes on significance only in combination with other factors: While this bus came by once every hour, the "isolated" shelter in the first city could be reached by bus four times per hour.

Shelters in two of the three Lower Saxony municipalities, for example, were considered "problematic". According to the interview material, while one of the employees working in other accommodations was used as a "threat" of a "punishment" (cf. Vertovec 2017) in order to prevent undesirable behaviour, a comparable accommodation in another city served as a catchment area of sorts for those who – in the opinion of those in charge – "didn't fit anywhere" and, from an official point of view, did not fit into the framework intended for them. Both accommodations discipline those who "end up" there and who are told that the accommodation is not there to generate a feeling of well-being – for example, through intentional inhospitality and clearly demonstrated control – and they do not fit into the system. They also have a disciplinary effect on those who do not want to be sent there.



The shelters where asylum seekers reside are spaces where asylum seekers begin their life in their new municipality, and the time spent there lays the foundation for the years to come. Those who get support here and have a good start will find it easier to engage with the local society. However, not all of them need the same type of support. Taking appropriate account of the diversity of the people who live there is an important task and challenge for the accommodation facilities. In addition, the WiMi studies show that the arrangement and time in local asylum seekers' shelters can also become areas and moments of exclusion.

3.2.c. Invisible, insecure, and without access to the essentials? Exclusion due to uncertainty about residence rights in Germany

In giving greater prominence to particularly vulnerable persons and persons with a precarious residence status, this subchapter directs the focus even more strongly to how the state – as an agent of exclusion – relates to migrants, upon whom their acts and processes of exclusion are inflicted. Refugees, in particular, often endure a legal “nowhere” for a long time, as asylum procedures stretch over extended periods of time, asylum seekers do not receive a protection status, or they lose it again.

Based on the said partial study undertaken by Magdalena Suerbaum, it is possible to show, on the one hand, how critical the residence status is in determining whether individuals have access to, or are barred from using infrastructural facilities and whether basic needs are met, in particular individual security, and on the other, that the degree of vulnerability of interviewees in this context is potentially high. The study shows that the welfare state and the administration, in how they function, are neither accessible to many people in particularly precarious situations nor are able to meet their basic needs. In addition, the study analyses how migrants perceive their own status and manage their expectations of their own future – in particular their *representations of and reactions to exclusion*. It is precisely their reactions to experiences of exclusion that also point to the agency of refugees, in their search to improve their situation by taking action, by approaching a counseling centre, getting advice from their networks, hiring a lawyer, or actively seeking contact with the authorities.

In particular, two residence situations examined within the scope of the study, namely the ban on deportation due to pregnancy and the temporary protection for unaccompanied minors, demonstrate how precarious the everyday experience of residency law is and to what extent it can give rise to various forms of exclusion. Based on sixteen months of field research carried out by Magdalena Suerbaum, this study shows how perceptions of deportation as a continuous threat²⁷ affects people.

²⁷ Two people who were observed in the course of the study experienced and “survived” actual deportation attempts, in one case because they could not be found, in the other because they had to be hospitalized due to panic attacks.



(PRECARIOUS) INCLUSION ON THE JOB MARKET: SYRIAN ASYLUM SEEKERS IN BAVARIA

The study entitled "Qualifications, potentials and life courses of Syrian asylum seekers in Bavaria" (Khourshed, Hunkler, Méango and Börsch-Supan 2019), which prompted the survey on the expectations of Afghan migrants, was carried out in the second half of 2017.

This study concentrates on the qualifications of the Syrian refugees who came to Germany and their expectations about starting anew in Germany, especially on the labour market. For this purpose, in addition to information on the educational qualifications and the personal skills (based on cognitive tests), the Munich scientists also documented their German language skills with the help of objective tests and assessment by interviewers. In a second step, the focus was directed to the specific skills of the migrants that were relevant to the labour market: For this purpose, the work experience of the migrants was surveyed with a special emphasis on the assessment of the qualification level and the acquisition of skills in the curriculum vitae. Third, the subjective expectations of Syrians were examined in order to better understand under what conditions migrants choose to invest in their labour market-related skills in the host country. The last and most difficult subject in terms of research ethics were traumatic events that could hinder the successful structural participation of asylum seekers in view of their often arduous journey to a host country.

The survey focused on Syrians, the largest group (by nationality) of asylum seekers in Bavaria. Syrians aged 18 and over who were living in and outside of group accommodation in Bavaria at the time of the survey were surveyed; the sample comprised 275 observations.

Four trends can be identified: First, the results suggest that as younger workers, Syrian asylum seekers could support the German labour market that is largely shaped by its aging population. However, as the study shows, the immigration of asylum seekers does not represent a holistic solution to the challenge of demographic aging confronting Germany and many other European countries. Second, traumatic experiences do not automatically bring about integration barriers. Thirdly, however, the cognitive tests used show that on average there is a skill gap between the native and newly immigrated Syrian population that needs to be closed. Fourth, this skill gap exists not only between locals and Syrian asylum seekers, but also between Syrian men and women.

By comparing two precarious residence situations, this WiMi study succeeds in capturing the moments and phases of exclusion confronting refugees in situations where the legal status is particularly precarious, as well as what sense they make of such situations and how they deal with them. It is essential to analyse processes of structural exclusion beyond the scope of individual cases.

Central to that process is the emergence of the image of the state as an arbitrary apparatus that decides on exclusion (and inclusion) in its most radical expression – to stay or to go. For young people who only enjoy protection because of their age and because they are unaccompanied and therefore relegated to the care of the youth welfare office, the loss of this protection, and its reduction to a "moment of inclusion" that now lies in the past, is difficult to understand.

Particularly dramatic in this context is the situation of those whose age must be "determined" by the authorities. If there are any doubts as to whether a young person is a minor, the competent authorities can commission an age assessment. Not only do the young people regard the experience of the process of this evaluation as humiliating and arbitrary. It is also not an uncommon practice, as one of the interviewees in the WiMi sub-study put it, for their age to be "taken away" or "stolen" at the end of the assessment. Suddenly a phase of relative inclusion gives way to a period of exclusion that is drastic for many: from one day to the next, they are excluded from using the youth welfare facility, rendered without protection from deportation of minors, without (official) guardians, without special advice for young people. These young people can only be housed in regular shelters for asylum seekers and are put through asylum procedures intended for adults – without the special



procedural guarantees in place intended for minors. As the WiMi study shows, these moments of exclusion can result in a chain of excessive demands, wrong decisions and negative experiences, so that such phases continue to be perpetuated. This can result in mental illness, homelessness, stays without a regular residence status and without protection. But in other situations, too, young people perceive the state also as the central *agent of exclusion*, which deems them unworthy of protection and hangs the sword of Damocles over them.

Even pregnant women who can access an attestation of a tolerated stay (*Duldung*) often describe their experiences in their dealings with state as being under constant suspicion and as not feeling worthy of protection (see Suerbaum: forthcoming). This *representation of exclusion* – and of the state as an actor that potentially excludes – already gives them a taste of exclusion when dealing with the authorities, if only because, like the unaccompanied minors described above, the threat of profound exclusion they experience remains a constant concern.

This threat, in both cases, means coming to terms with a life that is radically shrunk to something that is (or appears to be) of a short-term nature or it demands a lot from those affected beyond the short term, in terms of their own schooling and a start in their professional life or decisions on the future of the unborn child.

In both cases, adolescents and pregnant women experience similar forms of exclusion: experiences of discrimination and racism are combined with various, seemingly banal experiences of exclusion in encounters and exchanges with the state, which make the present time seem difficult and future planning impossible. The people who are at the centre of this partial study often experience the state as arbitrary and unpredictable and their own fate as dependent on the whims of clerks and undeserved.

The uncertainty surrounding their residence status and the awaited decision, which they perceive as arbitrary, results in a loss of a sense of security. The feeling of being at the mercy of the state, along with the risk of being excluded from welfare state provisions, from educational opportunities, or the risk of being forced out of their current place of residence at a moment when the highly insecure residence status of tolerated stay (*Duldung*) expires, characterizes not only every encounter with the state, but also one's life during this phase. The period of time when pregnant women or children are granted limited protection is, at the same time, both a phase of inclusion guaranteed under a precarious but still existing protection framework and a phase of lasting exclusion that potentially already anticipates physical exclusion.

In addition to experiences of discrimination and racism in interaction with the state authorities, the precarious legal situation brings about specific forms of exclusion in the form of small, everyday disasters (Kublitz 2015: 231). These “banal catastrophes” (cf. Kublitz 2015) can range from an expired health insurance card that makes a routine visit to the doctor a challenge, as reported by one of the interview partners, to total exhaustion and inability to concentrate in school, as was the case with another interviewee who was constantly worried about his legal status.

This is where it becomes particularly clear how uncertainty about the residence rights affects every aspect of life. Although the people are granted temporary protection – based on their age or the existing pregnancy – the threat of complete exclusion persists or becomes apparent among minors long before they attain the full legal age, a time when authorities would no longer identify them as minors, and long before the protection periods expire for expectant mothers.

The simultaneity of inclusion and exclusion is particularly evident here due to the omnipresence of the experienced and the perceived – as well as the feared – consequences of exclusion despite the short-term protection granted.



In addition to experiencing life as divided into short-term phases, the study reveals other possible reactions to this precarious simultaneity of inclusion and exclusion, which can be summarized as a complex navigation between different protection options and care, stepping into a life characterized by illegality of residence owing to a lack of valid papers and, in the case of expectant mothers, responsibility for the protection status of *another* human life. A life without valid papers, as possibly the most precarious form of stay, can represent a moment of even greater exclusion, which could ultimately be overcome. This WiMi sub-study shows, however, that a downward spiral can also occur, which, for example, can result not only in the loss of all protection status, but also in the possibility of dropping out of school, of drug use and contracting mental illness. The latter can – in a semi-paradoxical way – lead to a renewed claim to protection from deportation.

The WiMi sub-study on precarious residence status in particular makes it clear that apart from the moment of deportation, the inclusion and exclusion of asylum seekers can hardly be understood as static or unidimensional mechanisms. In the cases outlined here, the respective persons were offered some form of protection and thus experience a form of inclusion, which, however, is so precarious that perception essentially revolves around the potential and the already anticipated exclusion and possible reactions to it.

AMBIVALENT NUMBERS: COSTS AND BENEFITS OF (MISSING) REPRESENTATIVE DATA ON PERSONS WITH PRECARIOUS RESIDENCE STATUS

The problem of scant data availability on migrants in general and migrants with a precarious residence status in Europe, and especially in Germany, is the focus of the research conducted by Daniela Vono de Vilhena and Silvia Loi (both of Max Planck Institute for Demographic Research) as part of the WiMi Research Network, and entails a survey of the primary and secondary literature on the subject. Their quantitative analysis identifies the factors that make it difficult to access or collect such data, and highlights the consequences that the lack of representative data can have for those affected. Finally, the WiMi sub-study clearly shows that the lack of a data basis can allow incorrect or exaggerated data, or data that is improperly collected from a methodological perspective to dominate over the public debate, thereby contributing to an intensification of the tone. For in the debate on the pros and cons of the comprehensive, quantitative data on the situation of people not carrying a valid residence permit there is gross neglect of the significant impact of incorrect data or data that has been improperly collected from a methodological perspective on public discourse and political measures. After all, people without valid residence permits are often at the centre of political disputes (Jones-Correa and Graauw 2013, referring to the USA; cf. also the German debates on “too low” deportation rates, “asylum tourism” etc.), but also gives greater political weight to data that contains a mix of incorrect or data that has been methodologically improperly collected, and can in turn result in political decisions that exacerbate the legal and social precarity of undocumented persons.

The WiMi sub-study argues that the lack of data that has been reliably collected, or the prohibition to collect certain data, can also represent an act of exclusion by the state, which leads to undocumented migrants being denied their basic rights. At the same time, however, this act of exclusion offers protection against deportation and thus against further, even more profound acts of exclusion. As will be explained further below, the insecure status itself can be understood as a moment of exclusion, as a (limited) period of time in the lives of migrants during which they are largely excluded from security and access to the welfare state (cf. Foblets et al 2018).

The comprehensive secondary data and literature analysis carried out by the authors is based on the most important data sources available on Germany, and in so doing they demonstrate that this data is not well-suited to document the realities of those affected. Using the example of health – development of the medical condition or health status, access to health care – the WiMi sub-study



asserts that the lack of data means that people without valid residence papers are easily overlooked and excluded from vital, legally certified care. The existing quantitative studies on the health of migrants focus on people with regular residence status and therefore say little about the situation of those without this status. In fact, the most important representative national surveys automatically exclude migrants without valid residence papers, as they are drawn from samples from population registers in which they do not appear. This necessarily leads to distortions, especially since migrants in precarious residence legal conditions are more likely to be exposed to social and economic conditions that are detrimental to their health than other migrants.

In order to guarantee the human right to health to this segment of the migrant population, it is imperative to improve their social, economic and working conditions. Important in that effort is the availability of reliable statistical information on the health status as well as the living and working conditions of migrants who find themselves in unsafe circumstances in terms of residency law and that could be obtained in particular through the conception of representative surveys that are ideally longitudinal. Policies could actually take a targeted look at the realities of the daily life and at the health of people without residence status. Studies of this nature, however, cannot afford to overlook the risks faced by migrants: These risks range from re-traumatisation due to survey instruments that are not trauma-sensitive to an increased risk of deportation due to better-known strategies, structures and locations.

AMBIVALENT NUMBERS: COSTS AND BENEFITS OF (MISSING) REPRESENTATIVE DATA ON PERSONS WITH PRECARIOUS RESIDENCE STATUS

The spread of the Sars-Cov-2 virus has changed the lives of millions of people worldwide, and with it the situation of refugees and migrants. In this context, exclusion often becomes more apparent and in some cases life-threatening.

The pandemic is a particular threat to people living in the camps on the Greek islands investigated by WiMi researchers, but this particular situation – often particularly difficult – is also faced by residents of AnKER centres and other asylum accommodations: for example, if the specified distance and code of conduct for infection protection cannot be observed due to limited space. In the first phase of the COVID crisis, these processes were intensified because, for example, in part, accommodations in Bavaria were completely quarantined and thus access to support was (and is) often impossible or at least made considerably more difficult. The refusal of access for people and organizations offering support runs parallel to other measures that can lead to missing and inadequate information: For example, the BAMF discontinued the asylum procedure advice, which was only envisaged by law in August 2019, and thus cut off the affected asylum seekers from a central information source. Other exclusionary mechanisms evident in legal processes range from the suspension of the Dublin procedure for an indefinite period without access to the national asylum procedure of the BAMF to the officially communicated refusal of access to the asylum procedure, notably in many places in Europe, e.g. in Switzerland, Austria and Hungary.

At the same time, examples also encompass special efforts directed towards inclusion in the context of the pandemic – be it by including (former) asylum seekers who, in particular, have the requisite qualifications in nursing, in the production of face coverings, etc., or by way of the precautionary relocation of people into accommodations with lower occupancy and a better ratio for room area per person.

Looking beyond those seeking protection, it can be shown that the fear of illegally residing migrants in particular towards the authorities, which impacts access to health services, is problematic. In order not to exclude these people from their universal right to health and also to help curb



the spread of the virus, access to health care should be made more anonymous – as the WiMi study findings suggest. This could ensure that infections can be detected at an early stage, the necessary medical treatment can be initiated, and the virus can be further contained.

In summary, it can be said that under the conditions of the pandemic, processes that result in exclusion and marginalisation are sometimes even more evident and can have dramatic consequences for the individual – but that here, too, a purely dichotomous view of inclusion and exclusion does not adequately reflect reality.

4. Summary and outlook

4.1. Conclusions

Five years after the “summer of migration”, it has become clear that this moment in German immigration history cannot be understood dichotomously, i.e. neither as just an opening up of social and political structures, nor simply as a set of closures. The studies undertaken by the WiMi Research Network span across all levels, ranging from the European to the local levels, taking into account multiple perspectives – of those seeking protection as well as of the administration, the legislators and European actors – to show that the reception of refugees in Germany around 2015 is fundamentally linked to questions of participation *and* prohibition, inclusion *and* exclusion. The multi-dimensional and interdisciplinary approach adopted for this purpose made it possible to tease out simultaneities and contradictions that are otherwise often difficult to identify.

Using “exclusion” as the guiding research concept, the move to invoke the six central dimensions of exclusion simultaneously allowed the different forms and effects of exclusion to be identified and labelled, for each to be reflected upon in concert with the others. Although several WiMi sub-studies chose to put the spotlight on acts and actors, the WiMi study shows that understanding the spatial, temporal and narrative dimensions of exclusion, and in particular the reactions to them, is essential to delineating the impact of (state) acts of exclusion and inclusion. This is evident at all levels – from the EU hotspots to the consequences of decisions by local authorities that are perceived as arbitrary – especially in cases where exclusions are *unintended*.

Cast as a central actor at all levels of reception of asylum seekers, the state was the main subject of the analysis, while the consequences of state actions towards refugees and their reactions to experiences of inclusion and exclusion in various areas represented a second central focus.

The European blockade and legislative hyperactivity at the national level have created or expanded the scope of actions at the municipal level, which has influenced and continues to influence the admission of asylum seekers in the municipalities. In the long “summer of migration” and beyond, municipalities had to deal with significantly increased levels of uncertainty, in part exacerbated by the rapid changes in the law. As their approach to this uncertainty was varied, the local differences in the reception of refugees were palpably greater. For the refugees themselves, these processes both opened up and closed windows of opportunities, and at the same time, they also increased the levels of uncertainty they experienced, especially in their interaction with German authorities. The conditions for starting a new life in Germany also differ significantly depending on the municipality and the individual housing accommodations.



At the European level, the fact that the policy is often based on exclusion and deterrence is particularly evident at points of access to the territory and in the asylum procedure. The WiMi Research Network also identified the tendency to informalize migration-related decision-making processes using the examples of the European security policy, the implementation of the EU-Turkey Statement, the EU hotspots at the external borders and internal border controls at the German-Austrian border in a manner that makes the border visible. These processes entailed cooperation between states, as well as between states and the EU institutions and raise questions about legal responsibility in the event of legal violations, the complexity of which the WiMi Research Network spells out, mainly as it applies to the EU hotspots. In situations where the responsibility cannot be clearly identified, it must be possible for those affected to choose one entity against whom a legal act can be directed in response to exclusion. Using the EU hotspots, the WiMi study was able to show that the framework conditions have changed from a short-term aid measure for overburdened state structures at the external borders of EU to a permanent scheme that blocks access to rights, in particular as the initial plan for admission and relocation did not work. Also in view of the parallel conclusions of the research on the AnKER centres in Germany, the more general conclusion is that large centres, especially on the periphery, are not a viable solution for the migration management system as the probability of legal violations increases.

At the same time, with the federal government's decision to admit those who found themselves in a desperate situation in August 2015, especially in Hungary, the national legal framework also began to adjust. The WiMi Research Network shows that the legal changes increasingly rendered the system of asylum and residence rights incoherent, signalling that this was a turn that the European legal framework should actually have prevented. In the area of legislation, too, the influence of the security agenda becomes clear, which, in conjunction with the focus on returns, has significantly influenced and slowly superimposed the legislation, which was initially geared to solve everyday problems. All in all, it has become apparent that elements resulting in exclusion from social participation at the national level prior to status clarification are the central instruments for countering the rapid immigration of refugees. At the latest since mid-2016, the pragmatic solutions of 2015 and 2016 have been supplemented and partially substituted by policies responding to security and regulatory concerns that exclude ever larger groups. At the same time, the diverging administrative practice makes the limited effect of the legislative intervention options palpable. Often, changes in the law are not successful in pre-structuring the legal decision-making practice and to thereby stabilize it, since the decision of the administration in a specific situation depends largely on other political and social determinants. From the point of view of the rule of law, this incoherence, which is often associated with a lack of transparency, is definitely not without problems.

At the communal and individual levels, the picture is even fuzzier: Here it is all the more evident that measures often have more than one addressee and are prompted by more than one intention and their repercussions are furthermore complex. In 2015/16, municipalities faced major challenges, as the rapid immigration of refugees led to an enormous spike in levels of uncertainty and a large number of tasks had to be completed quickly. In this phase of *fundamental uncertainty*, local governments, in their capacity as organizations, had to develop their own strategies to reduce uncertainty, as the WiMi studies show. At the same time, such strategies for reducing uncertainty in the medium to long term differed significantly from one another. Here, the research carried out by the WiMi Research Network shows that municipalities can function as both inclusionary and exclusionary actors due to the differences in their handling of the "long summer of migration" – and that even if a municipality has shown itself to be particularly inclusive in one area, such as accommodation, it is possible that in other areas it relies more on exclusionary measures, for example, in the case of the arrival of refugees who had been recognized as such in other municipalities. At the local level, it becomes particularly evident that the state acts are both inclusionary and exclusionary.



With regard to the accommodation of refugees, it is possible to show that exclusion often results from a complex interaction between different factors. In addition to central actors – for example, the local government – whose role in this interplay can in part be identified, other social and spatial factors contribute to this network of decisions of such actors that sometimes can significantly change the effects of these decisions.

Refugees themselves often experience this complexity as arbitrariness and the state as an overpowering apparatus in whose clutches they are kept captive. In particular, people with a precarious residence status, as the WiMi study shows, conclude that local authorities arbitrarily decide on questions of exclusion and participation. An unequal decision-making practice and, from the point of view of the affected persons, one that is often incomprehensible at the municipal level, in turn, generally gives rise to a perception among those seeking protection that they are at the mercy of an apparatus that is ambiguous and arbitrary, one that makes decisions on their behalf without allowing for its organizational components to be clearly identified or for an indication of where direct responsibility could be assigned. Especially variances between different municipalities as well as the assignment of people to categories that are not necessarily conclusive for them often increase uncertainty and (perceptions of) exclusion. At the individual level, this simultaneity can lead to uncertainty, fears, and reluctance in investing in one's own stay – for example, through a decision to acquire language or other skills.

Nevertheless, the WiMi study has also shown that the “long summer of migration” cannot be described as a crisis at the local level. Municipalities and refugees, volunteers and activists were faced with great challenges, but with the support of civil society actors, the state structures have not only proven their efficiency, but – at least in part – also their adaptability and an ability to learn.

By shifting the focus to dimensions of exclusion, these processes could be analysed more precisely at various levels, since the dichotomy between inclusion and integration on the one hand and exclusion on the other, while often favoured, does not explain the complexity of the phenomena encountered. For example, the complex repercussions of precariousness can only be analysed in depth if all dimensions of exclusion are taken into account. The same applies for the assessment of the effects of administrative and legislative measures. The analytical framework adopted by the WiMi Research Network allows for a more nuanced depiction of the individual phenomenon and its position within a larger framework for a meta-level analysis. The inter- and multidisciplinary approach also foresees separating the practical from the legal questions as well as their examination in the overall context. The joint efforts to develop the analytical framework was central to the dialogue, for fostering mutual receptivity, and to engage in a more in-depth discussion on the repercussions of the “long summer of migration”. The contribution of the WiMi Research Network has been enhanced through the adoption of an inter- and multidisciplinary approach and the inclusion of diverse perspectives, which allows connecting previous research and parallel efforts for establishing and consolidating a field of research that is still new in German-speaking countries and for gaining a better understanding of refugee migration and asylum as a phenomenon.

In public discourse, the “long summer of migration” is often associated with the notion of the “refugee crisis”. What has already been established with regard to the local perspective also applies to the higher levels, namely that many problems that were “discovered” and came to the fore during this period resulted from already existing systemic and structural weaknesses. For example, the Dublin system did not just suddenly fail, as this has not led to any lasting effects on refugee relocation since its introduction. Nevertheless, continuing to rely on the assumption that responsibility can be allocated in large numbers still results in (repeatedly failing) reform discussions. A “crisis” signifies the sudden appearance of problems and weaknesses that are barely manageable and, in this particular case, triggered by several hundred thousand people seeking protection. However, as this WiMi study shows, the structures did not completely collapse at any of the relevant levels, but that said, it also



shows that changes have partly led to an opening up, especially at the local level, as also to increased levels of exclusion, especially at the European and national levels – impacting not just the refugees but also the now overly complex German asylum and migration law and the European migration policy.

4.2. Future fields of action

The WiMi study has generated significant conclusions that could help to resolve challenging situations in the future in the area of refugees and migrants, whereby some can be largely adapted to other areas where quick political and practical action is necessary: Quick and clear decisions aimed at solving problems as and when they arise must be clearly communicated and conveyed in order to ensure implementation and thus also the participation of all actors. The feeling of abandonment in the administration or perceptions of arbitrariness among the concerned parties hinders or reduces the chances of solutions.

The structure of the questions raised is so complex and the goals so heterogeneous that simple solutions usually do not result in a long-term simplification – especially in the legal arena. Geared towards granting individual rights, the legal framework for refugee migration advocates that conditions and access also be designed for individuals. The benefits of significant acceleration can unfold only if actions and decisions are taken on a case-by-case basis instead of solution concepts being formulated and implemented for larger collectives. In the process, information transfer and processing attain a level of importance not just for those affected.

Unrealistic expectations with regard to gains made through the efficiency of new legal regulations and practical simplifications within complex structures increase the probability of unintended exclusionary effects. An approach that is more resolutely person-oriented can create greater transparency and comprehensibility for the affected persons, thus enabling them to better identify and understand their own options for action. Reducing the perception of arbitrariness can – in addition to having positive effects, for example on the health of the refugees and their willingness to invest – also increase their willingness to cooperate and thereby simplify the procedures and disencumber the administration. Research has shown that the administration can act in a goal-oriented and transformative manner even during peak periods of high workload, and carry out its tasks well – if the framework conditions are right.

The high frequency of legislative changes, has created the need for fundamental reform of the legal framework to oversee changes in the residence and asylum laws in order to resolve the contradictions, as administrative requirements need to be uniform and more transparent to be effective.

In addition, it is essential to plan a sustainable strategy for accepting refugees in fluctuating numbers: This requires a long-term strategy based on policies that do not result in short-term exclusion nor prevent long-term migration, but, rather, on those that generate appropriate responses to fluctuating, sometimes rapidly increasing numbers of asylum applications, ensuring that sufficient resources, basic concepts, and additional relief options are available at short notice. Municipalities, in particular, also need incentives and resources to encourage focus on opportunities, participation, and productive management of increasing migration-related diversity and to further improve cooperation with civil society actors. Municipalities that develop their own strategies for reforming and expanding their structures for migration and displacement should also receive financial support.

Finally, the WiMi study exposed serious deficiencies in how asylum law and welfare-state processes and procedures for handling the refugee-situation were communicated. In this arena, transparency must be promoted, and language and intercultural barriers broken down. In order to open up



opportunities for greater involvement and to foster greater participation among refugees, a transparent, comprehensible asylum procedure, with independent legal support, is particularly necessary. "*Duldung*" as a form of "non-status" should also be conveyed and structured in such a way that those affected understand their situation better and feel less threatened by deportation if this is not possible for legal reasons. Ultimately, greater efforts are needed to raise the level of intercultural and anti-racism awareness among clerks, social workers, and executives especially at the local level.

In its scientific assessment of how the situation has evolved since 2015, the WiMi Research Network offers a structural analysis of important aspects. It is now time to reduce incoherencies and unintended exclusionary effects that have arisen through quick, not always sufficiently coordinated responses, which would require, in particular, a streamlined legal framework, the development of sustainable strategies at different levels, as well as a comprehensive information concept for the affected persons. Such a project can only succeed constructively if it is also clear that it is impossible to avoid simultaneities and contradictions and subjective evaluations of what can or should be considered success and failure.

The conclusions drawn by the WiMi Research Network on the remaining gaps in research concerning the interaction between the actors across levels and the mutual influences between levels can serve as a sound basis for future research in this rapidly growing and established research field. In addition to the question of vulnerability, already examined in a follow-up project, the related question of the effects of insecurity and precarity and the investigation of the re-nationalization of decision-making processes under migration law are of particular interest. In addition, from a comparative European perspective, the question of how to handle situations when people do not receive international protection but also cannot be deported for legal or factual reasons, is central, because this "faction" still lacks extensive research and needs to be sufficiently documented. At this point, European asylum law has an intended gap that can be filled by the national institutions and, under certain circumstances, this gap must also be filled. Some findings of the WiMi studies on the influence of residence status offer important points of departure for more in-depth research.

In addition, it is crucial to grapple more resolutely with global changes and their effects on migration as much on a global as on a local level. The WiMi study shows that cities are not only able to respond ad hoc to rapid migration movements, but also have the capability to develop strategies for dealing with anticipated challenges and adapting structures accordingly. On the local level, but as much also on the national, European, and global levels, climate change will bring about new migration trends, to which all levels will have to respond – these changes, but also the (lacking or the progressive) anticipation of global developments through concrete policy adjustments require scientific analysis.

As to whether "we" managed this ongoing situation depends profoundly on the focus on and the level of interest in expertise as well as the evaluation of the processes. According to the findings of the WiMi Research Network, however, it is clear that Germany, as Europe's most important host country, has been making a significant contribution to refugee protection since 2015. The administration and society have shown themselves to be capable of performing and developing both structurally and in terms of implementation, and they were able to meet the challenges. At the same time, processes of exclusion still persist, and they prevent access to rights and social participation, and propel people towards precarious, opaque, unclear and difficult personal situations that have a significant impact on their physical and psychological well-being, as well as on opportunities to participate and the individual willingness to invest. Notwithstanding the accomplishments, in some cases, there is also considerable potential for improvement across all levels – political, administrative, and legal – with regard to handling refugee migration.



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