

ANALYSIS OF LEGISLATIVE CHANGES CONCERNING THE REGISTRATION OF IMMIGRANTS IN GERMANY

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ABSTRACT

European Union's Common Policy on Asylum, Immigration, Visas and External Border Controls has the theme of Title V (Area of freedom, security and justice) of the Treaty on the Functioning of the European Union (TFEU).

According to data from the Federal Statistical Office, 1.1 million immigrants have entered the territory of Germany in 2015, and of these, 500,000 have filed documents to apply for asylum.

It found that there are inconsistencies in the level of activity of the five authorities in Germany that registers refugees.

In this paper we analyze the legislative measures adopted or are being adopted to streamline the work of public authorities involved in the management of immigrants.

Key words: *immigrants, legal procedures, public authorities, Fast ID System.*

1. The situation of immigrants in the European Union. General Aspects

European Union is located in one of the most tense and difficult period. Europe is in the presence of a triple crisis: financial and economic crisis, Brexit and immigrants' crisis, in other words, we face an existential crisis.

Migration is a shared responsibility of countries of origin, transit and destination. European Union and third countries should act in a spirit of partnership to find common solutions to challenges of mutual interest. In other words, the obligation of managing this situation is an international obligation.

For 2015, it was registered an increase in requests for a form of protection globally, but in the German state was a significant increase compared to the other EU countries. This fact is due to Germany's internal strategy to facilitate the migration process, hoping to cover employment needs work. Germany's share of the EU-28 total rose from 31 % in 2014 to 35 % in 2015 while other EU Member States that recorded a notable increase in their share of the EU-28 total included Hungary (up 6.6 percentage points to 13.9 %), Austria (up 2.2 percentage points to 6.8 %), and Finland (up 1.9 percentage points to 2.6 %).[1] Thus, we can say that the

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reception of asylum seekers who come in large numbers in Germany is the most difficult task to Reunification of the country.

Asylum systems of Member States are confronted now with unprecedented pressure, the European Union must act before the pressure becomes intolerable situation can no longer be managed due to the volume migration flows, low capacity of receipt of certain state and infrastructure faulty processing of asylum applications.

The adoption of the European Agenda on Migration and Valletta Summit on Migration, held in November 2015, and the Vienna Summit in November 2016 represent important steps in managing this phenomenon by the European Union.

European Agenda on migration adopted by the European Commission on 13 May 2015 proposes four major areas of action:

1. reducing the factors encouraging illegal immigration with a focus on addressing the root causes of illegal migration from third countries and better implementation of return policies;
2. saving lives and securing external borders through better management of external borders and streamline border procedures;
3. consolidation of common migration and asylum policy;
4. development of a new policy for legal migration, given demographic future challenges facing the EU.

With a budget allocation of EUR 96.8 billion for 2014-2020, EU assistance for external cooperation, including cooperation for development plays an important role in addressing global problems such as poverty, insecurity, inequality and unemployment, which among the main causes of irregular migration and forced. It is included the support for regions in Africa, Asia and Eastern Europe from where are most migrants. [2]

2. Administrative aspects concerning immigrants' registration in Germany

2.1. The evolution of the legislative framework relating to asylum

The right to asylum was regulated in Germany in 1948, as a direct response to the Holocaust.

Germany gave the first test of migration in 1990, when war broke out in Yugoslavia. Thus, the wave of immigrants has caused social tensions so great that the government had to implement in 1993 the so-called "compromise Asylum" by trying to minimize the risks of abuse they were subjected to asylum seekers, also to reduce the number thereof.

In 2005, amid a decline in the labor force, the federal government adopted the Law of residence, in order to correct errors made in the past and thus the State opens again for migration. As a result of adoption of this law between 2005 and

2010, Germany received around 50,000 people annually, but after 2011, with the outbreak of civil war in Syria, the numbers begin to grow.

The arrival of waves of immigrants was a test for Member States to cope with a crisis. As a result of the inability to manage the situation, Member States decided that the best solution is to close its borders, except Germany. [3]

In present, the statute and procedures of asylum are regulated by Asylum Act, promulgated on 2 September 2008 [4], amended by Article 2 of the Act of 11 March 2016 [5].

This statute shall serve to transpose into national law the following directives:

1. Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in Member States
2. Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
3. Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status

On the background of amplification migration crisis in Europe, 2015 was marked by Chancellor Angela Merkel's declaration that Germany announced that receives migrants with open arms. Thus, the slogan "Wir schaffen das!" (We can do it!) has become a credo of the German Federal Government, even if the legislation regarding asylum has become more restrictive in 2016. However, current Executive German slogan is "We support and ask!".

2.2. Statistics on the number of immigrants and country of origin

According to data from the Federal Statistical Office, 1.1 million immigrants have entered the territory of Germany in 2015, the highest annual level of this indicator in its history.

According to forecasts published by the Institute of Economic Studies in Cologne, increased migration will increase the German population to 83.1 million people in the next two decades.

Germany is ranked third in the world in number of immigrants. According to UN data, over 16 million people in Germany are foreigners or have immigrant parents, first or second generation, and about 7 million do not have the German nationality.

The main factor that drives people to emigrate to Germany is the Middle East War, for which the main countries of origin are Syria, Iraq and Afghanistan. However, the statistics can be seen that there are numerous nationalities of people applying for asylum in Germany.

Tabel 1: Top 10 Countries of Origin of Asylum Seekers (2015)

	Asylum applications total	Percentage of all applications	First time asylum applications	Percentage first time asylum applications per country	Total protection rate (percentage)
Syria	162,510	34,1%	158,657	97,6%	96,0%
Albania	54,762	11,5%	53,805	98,3%	0,2%
Kosovo	37,095	7,8%	33,427	90,1%	0,4%
Afghanistan	31,902	6,7%	31,382	98,4%	47,6%
Iraq	31,379	6,6%	29,784	94,9%	88,6%
Serbia	26,945	5,7%	16,700	62,0%	0,1%
Unknown	12,166	2,6%	11,721	96,3%	80,2%
Eritrea	10,990	2,3%	10,876	99,0%	92,1%
Macedonia	14,131	3,0%	9,083	64,3%	0,5%
Pakistan	8,472	1,8%	8,199	96,8%	9,8%
Total Top Ten	390,352	81,9%	363,634	93,2%	54,9%
All countries	476,649	100,0%	441,899	92,7%	49,8%

Source: Bundesamt für Migration und Flüchtlinge (2016a)

2.3. The procedure of registration

All asylum-seekers arriving in Germany must report to a state organisation on arrival or immediately thereafter. They can do this as soon as they reach the border or later within the country. There are five authorities that record the asylum-seekers.

All individuals reporting as seeking asylum in the Federal Republic of Germany are registered. This is carried out at "PIK" (Personalisation Infrastructure Component) stations by the Federal or Land police, by staff of the BAMF in the branch offices and arrival centres or by staff of the Länder at reception facilities, immigration authorities and arrival centres.

The introduction of the proof of arrival for asylum-seekers gives to the "Asylum-seeker Registration Certificate" (BüMA), which previously was non-standard and varied from one Federal Land to another, a new design which is the same all over the country, and which furthermore contains security characteristics.

They were found inconsistencies in the databases, which led to the establishment of a Central Register of Foreigners (AZR) on which have access to all 5 authorities work with these data in performing their tasks. This register will contain the following data on persons registered: personal data, passport photographs, fingerprints of people aged over 14, country of origin, mobile phone number, information on vaccinations, X-rays and medical records, details about professional education. The fingerprints are additionally used to verify whether an individual has already been registered in another EU country.

Identity data, personal data as well as information on the country of origin of the asylum-seeker are used by the mobile team members to establish "preliminary files". What is very important to note is that Internal or Domestic Intelligence services will not have access to this register.

Asylum-seekers receive a proof of arrival (Ankunftsnachweis) at the reception facility, arrival centre or branch office of the Federal Office which is responsible for them to prove that they have registered. They can however also receive in advance a certificate directing them to the nearest reception facility (Anlaufbescheinigung). This contains both personal data as well as the address of the reception facility which is responsible for them and where they will receive their proof of arrival.

As the first official document, the proof of arrival serves to document the entitlement to reside in Germany. And what is equally important is that it constitutes an entitlement to draw state benefits, such as accommodation, medical treatment and food.

Also, to increase business efficiency, it is desired that all authorities as soon as possible to be provided with Fast ID System (rapid fingerprint comparison).

Under the new law regulating the right of asylum, law adopted in October 2015, Albania, Kosovo and Montenegro are considered in the future as safe countries of origin, so that their citizens do not have the opportunity to seek asylum in Germany, except in particularly serious cases. Also, currently Algeria, Morocco and Tunisia will be declared safe countries, which would result in reducing the number of asylum seekers in Germany.

2.4. Airport procedure – special procedure for asylum

A special procedure applies should people attempt to enter the country by air and apply for asylum. This procedure is known as "airport procedure".

The airport procedure was introduced by an amendment that was adopted in 1993 (Article 16 of the Basic Law (Grundgesetz)).

Without the airport procedure, the Federal Police would have to permit anyone who has destroyed their passport and requests asylum to enter Germany because of the "principle of non-refoulement" that is contained in the Geneva Refugee Convention.

The airport procedure is only implemented at airports which can accommodate asylum applicants on the airport complex¹.

The airport procedure is operated subject to the "principle of immediacy". In this context, the Federal Office must interview applicants within two days of receiving the asylum application. It is then decided whether they are to be permitted to enter the country or the asylum application is to be rejected as "manifestly unfounded". If it is turned down, the Federal Police can refuse to permit them to enter.

According with legal framework concerning the activity of Federal Office for Migration and Refugees, Following on from a rejection, applicants have three days' time to submit an application for temporary legal protection to an administrative court. They then receive legal advice from an independent lawyer free of charge. The administrative court can grant a further four days in which to submit grounds on request. If the administrative court approves the emergency application or has not ruled on it within 14 days, the asylum applicant may enter the country. This means that the airport procedure has a potential total duration of 19 days. The asylum applicants must however remain in the airport transit area until a final ruling has been handed down. If the appeal is turned down, they are sent back either to the place where their flight originated, or to their country of origin.

3. Conclusions

Granting a form of international protection to a person under threat means, firstly, that person admission on its territory and involve some protection measures. [6]

Policies in the migration field will be successful provided to be supported by effective integration policy. The European Union can support the actions of national governments, local authorities and civil society participating in the complex and long-term support integration and mutual trust.

Regarding the situation of immigrants and refugees, the question of their integration speed, so we can talk to their optimum living together with European citizens.

References

[1] http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics, access on 19.09.2016;

¹ This currently applies at Berlin-Schönefeld, Düsseldorf, Frankfurt/Main, Hamburg and Munich airports.

[2] Comisia Europeană (2015). O Agendă Europeană privind Migrația, Bruxelles, p. 10;

[3] M. Cocoșatu, C. Rădulescu, Legislative framework and statistics concerning asylum in the Member States of the European Union, Case study: Germany, in Probleme actuale ale spațiului politico-juridic al UE, supplement of Revista Română de Drept European, 2016, p. 148;

[4] Asylum Act, Federal Law Gazette I, p. 1798;

[5] Federal Law Gazette I, p. 394;

[6] A. Bulgaru, Standarde și măsuri la nivel național și european privind protecția internațională în materia azilului, Ed. Pro Universitaria, București, 2013, p. 19.