

A Migration Nightmare-Why Germany's Deportation System Is Failing Everyone

As Germany tries to crack down on rejected asylum-seekers and criminal refugees, its civil servants are constrained by the limits of a dysfunctional system. Whether refugee, police officer or office clerk, almost everyone involved has something to complain about.



When German Federal Police officers talk about what it's like to accompany a migrant on a deportation flight, it's easy to feel a sense of shame for this country's immigration apparatus. The officers, who are regularly attacked on the job, share how they're often spit on with blood or pelted with feces. A meager 1.20 euros (\$1.36) a day is meant to offset the cost of general wear and tear for the suits they are expected to buy themselves — and have to wear during deportation flights. Their employer will only pay for laundering “if the clothing has been particularly dirtied (blood/saliva/urine) while at work.”

There's more: The cost of on-board meals is taken out of the officers' daily travel allowances, which are already negligible. After the officers return from, say, an exhausting 72-hour trip to Asia or Africa, they must then painstakingly log their work hours. Several people told DER SPIEGEL the hours they spent flying home weren't even counted as “work time,” since their superiors considered them to be “travel time.” Sometimes the officers are forced to put in 20 to 30-hour shifts before even seeing a cheap hotel bed. “When we're in Afghanistan, standing around waiting for the next thing to happen, sometimes they'll deduct that time from my hours as a break,” says one Federal Police officer.

The officers are also required to pay up front for costs incurred while working abroad — “and then I wait weeks until the government reimburses me.” When officers return from a deportation flight, beset by jet lag, they're often expected to report for normal duty the next day. That's because there is no such thing as extra time off due to jet lag in the service regulations. On top of that, escorting officers invariably have trouble getting their full shift bonuses — since they aren't

home and can't take part in rotating schedules. In the end, they earn less money than they might have if they had simply stayed in Germany. That's the reality, though most people rarely hear about it.

The trials of civil servants who stick their necks out for Germany and keep its constitutional democracy running smoothly often go unnoticed, especially amid the appalling disorganization surrounding deportations. That Germany's asylum landscape is full of holes is nothing new, but it's becoming more clear just how deficient the system is. After the mass, uncontrolled migration of 2015 and 2016, it will take years for a sense of normality and order to set in.

Low-Hanging Fruit

But instead of getting down to brass tacks and working together to establish a coherent system of asylum laws, immigration laws and orderly deportations that works for everyone, things have only gotten more chaotic and confused. And so the problem remains among the lowest hanging fruit for populist politicians and right-leaning media to get worked up about. When acts of violence are perpetrated by foreigners, Germany's largest tabloid asks, "How many more victims do there have to be?"

In Germany, there are two diametrically opposed camps, each of which holds the other in the absolute lowest regard. On the one side, there are people led by the far-right Alternative for Germany (AfD) party who ominously warn of a "population exchange" ushered in by dark forces. On the other side are their ideological opposites, those who eschew xenophobia and national borders and want all government policy to follow strict moral codes. Between these two extremes — "all foreigners out" vs. "all foreigners in" — are Germany's political parties, which are all too happy to exploit this black-and-white mentality for their own electoral gains.

The reality of the situation is often drowned out by all the clamor. Germany's federal and state governments and its administrative bodies don't seem to have learned anything from the exodus from Yugoslavia in the 1990s that brought the last major wave of refugees to Germany. To this day, there is room for less than 500 people in the country's pre-deportation detention centers, even though thousands are slated for repatriation. Despite all statements to the contrary, even the case of the Berlin Christmas market terrorist attacker, Anis Amri, a Tunisian

national who was the product of a failing asylum bureaucracy, failed to spark any radical rethinking or system overhaul so that Germany's bureaucrats could learn to work together in a meaningful and sensible way. Instead, the country has been left vulnerable to that kind of attack at any time.

No Action, Clarity or Oversight

A simple rule of thumb applies in Germany: Politicians who stand in front of the cameras and portray themselves as the "country's toughest migrant deporter," or a "person who toughens laws to protect the German people," are generally impostors. There is no shortage of laws, provisions, regulations or tough rules. What's lacking is action. And clarity. And oversight. And above all else, the recognition that German states and communal immigration authorities are drastically overwhelmed in their bureaucratic task of handling migrants from all corners of the world. There is also a need, even in a country with the kind of federalist structures Germany has in place, for a centralized process that guarantees things will be carried out in a clear and fair manner. There is no shortage of proposals, working groups or task forces, and yet there still isn't a coherent overall framework, even though a "master plan" has existed for months. In the end, this dysfunction hurts everyone involved in the deportation process.

A few figures illustrate the mess the European and German asylum systems are currently in: In light of the Dublin Regulation, which stipulates that migrants must file their asylum applications in the first EU country in which they set foot, Germany deported 9,209 migrants to other European countries this past year, while taking in 7,580 asylum applicants from others.

A total of 23,617 people were deported from Germany last year. But at the same time, there were 30,921 failed deportation attempts. This was because people got sick, went missing, suffered some ill stroke of fate or because court orders got in the way. There were 7,849 cases of "unsuccessful delivery on the day of flight," and 3,322 times, ongoing repatriation attempts had to be aborted due to "denial of transportation," "active/passive resistance," "unsuitability for air travel" or "legal appeals." But one reason not included in this list is: "Germany's absurd administrative complexity." One Federal Police officer estimates that in order to successfully deport 150 people, 1,000 official deportation procedures must be initiated for around 600 people to be identified who qualify for deportation. Of those 600, some 400 nighttime raids must be organized in order to ultimately take

into custody 150 people who can actually be put on a plane. And even that number isn't a sure thing.

Once a deportation has been carried out, a “revolving door effect” begins. There are no official statistics, but high-ranking officials estimate that a large number of deportees return to Germany sooner or later to try their luck anew.

Bad for Everyone

Behind this wall of numbers lurks the nasty business of deportation. Most of the time the customers are people whose hopes have been destroyed. They are afraid of what will happen to them and they despair to think that everything may have been for naught. That includes the money they have paid to smugglers and also the dangerous journey that brought them to Germany. Deportation represents the dirty end of all their dreams, and whoever says Germany should simply deport rejected asylum-seekers — just like that, get rid of 'em, all those pesky foreigners — has no idea just how dirty it can get. This is just as true for the people being deported as it is for the police officers doing the deporting. There are plenty of examples.

On June 6, 2018, 90 foreigners sat on a plane chartered by the Czech low-cost airline SmartWings. There were also 83 Federal Police officers on board, four doctors and a paramedic. The flight was to Madrid because all of the 90 men, women and children first touched European soil in Spain. According to EU asylum law, they should have stayed there rather than continuing on to Germany.

The Berlin Refugee Council, an association of human rights activists and advocates, speaks of “horror deportations.” They allege police tied up a woman and carried her onto a plane in front of her crying small children, while she screamed for her husband who was not being deported with her. Another woman was hit. Yet another man, mentally handicapped, was sedated with medication until he appeared “completely out of it.” Everywhere there were desperate, sobbing people. And what did the police do? They laughed at them.

In response to an inquiry by the Green Party, the state government in Berlin took a more sober tone: “The general accusations of physical violence cannot be confirmed.” By any account, it was not a pleasant flight. In a statement, the federal government confirmed that indeed, one “person” had to be carried onto the plane, three families had been torn apart and, yes, police had tied up five

people.

None of this is uncommon, statistics show. From January to November 2018, restraints or tethers were used on such flights roughly 300 times. Five foreigners were forced to wear head or bite guards because they kept resisting transport. Police escorts regularly find razor blades in shoe soles or in people's mouths, which deportees use to injure themselves. This shows just how high the stakes can be: For many of these forced passengers, repatriation is a matter of life and death.

What About the Police?

In light of these conditions, human rights advocates are constantly asking what the state is doing to these people. But on the other side are the police officers. Who's asking on their behalf what effect all this violence and anguish has on them? No one. Not even their employer, the Federal Police, which organizes most of the deportation flights.

Police officers are supposed to conduct themselves in such an inoffensive manner that no one has any reason to complain about the government. But the fact that it's the police officers themselves who are doing much of the complaining is something the authorities have not taken seriously in recent years. The government simply doesn't seem to care how officers are supposed to find the necessary energy to fulfill their duties. On the contrary, civil servants who set foot on any of these repatriation flights are treated extremely poorly by their employer.

It begins with money. So far, officers that have accompanied deportees have not received a single cent extra for doing so, even though it goes above and beyond the normal requirements of their job. Instead, they get the usual allowance public servants receive when they travel, such as when they attend conferences. This is not the case in Norway, for instance. There, the government pays police officers between 600 and 2,000 euros per flight. Italy pays its officers 1,000 euros for every three repatriation flights they escort. Now, the German Interior Ministry is considering its own extra pay scheme — it's been fiddling with the details for more than a year — but it won't be higher than 50 to 100 euros per trip. The maximum rate would also only apply to flights that are longer than eight hours. This is all according to a draft law that could be ratified in 2020, and maybe it

would even apply retroactively to 2019, but who knows?

Degraded to 'Piggy Banks'

Progress happens at a snail's pace in today's Germany. "The more deportations there have been, the worse the conditions have become for the accompanying officers," says Jörg Radek of the German Police Union. "Accompanying officers have been degraded to piggy banks." And what these "piggy banks" have been forced to put up with on repatriation flights, in addition to a lack of additional pay, is all documented in the deployment reports.

Oct. 24, 2018. A flight from Munich to Rome. "The nine deportees on board continue to put up massive and active resistance. Three air escorts from the Federal Police were spat on with a mixture of blood and saliva directly into their eyes (deportee had bitten his own tongue)."

Jan. 22, 2019. Düsseldorf to Dhaka. "Deportee No. 4 attempted to bite or headbutt police officers."

And then there was the incident along the A3 autobahn near Cologne in late October 2018: A Bavarian police officer, just 20 years old, and her colleague were escorting a Nigerian man to Düsseldorf in a VW bus for a mass deportation. The Nigerian was sitting behind them in the vehicle's prisoner compartment. For the first 550 kilometers (342 miles), it remained an uneventful ride. Suddenly, the man began to try and strangle himself with his seat belt. The officers hit the brakes, pulled over and jumped out to help the man. The sliding door to the rear compartment, however, which can only be opened from the outside, somehow slid shut amid the scuffle. Inside, the Nigerian was flailing aggressively with his arms and legs. Only with considerable effort were the officers able to unwrap the seatbelt from his neck and restrain him. Afterward, it took them a while to free themselves from the locked bus, which they were only able to do by using their batons.

An Unattractive Job

In an internal paper dating from last April, the Federal Police leadership spoke of a "growing disposition to violence and malice" with which officers had to grapple. But it's not only the aggressiveness of the people they're escorting that weighs on them — it's also the sheer stinginess of their employer. Official regulations specify

whether and how expenses incurred during shifts are to be reimbursed. In the past, this has led to a situation in which food consumed on board has been deducted from an officer's daily allowance. During longer assignments, escorting officers are only allowed to book rooms in cheap hotels, where — of course — breakfast is deducted from their daily allowance. Backpacks and fanny packs for the trip must be provided by the officers themselves. They don't even receive an allowance for the suits they are required to wear — and buy themselves. Germany's sky marshals on the other hand, who are tasked with neutralizing potential terrorists on board airplanes, receive a few thousand euros from the Federal Police to cover the costs of their undercover business traveler outfits.

Of course, when it comes to limits on working overtime, the federal government's adherence to regulations is conspicuously absent. During one deportation on Aug. 14, 2018, from Munich to Kabul, police officers from Dresden were required to work a 27-hour shift. The record is apparently 40 hours. In a confidential report from last April, even the Federal Police's own leadership admitted "that the general conditions do not exactly make this job more attractive."

All of this has consequences. According to officials involved in deportations, it is becoming increasingly difficult to find enough officers for the flights. The flights aren't compulsory, after all; the Federal Police seeks volunteers from within its ranks who are willing to accompany foreigners as they are deported against their will.

On Dec. 4, 2018, the Federal Police headquarters in Sankt Augustin put out its second call for volunteers for a deportation flight to Pakistan. "Of the 110 officers required, only 59 have so far come forward." A similar appeal for a flight last summer to Nigeria and Gambia was also documented: "This is a renewed request for participation so that at least an appropriate number of the announced deportees (38) can be escorted." Sixteen police officers volunteered, but 75 were needed for the flight.

Necessity Knows No Law

In their confidential paper from April, the Federal Police openly diagnosed "operational fatigue" among its officers. It was becoming "increasingly" apparent that they were "reaching their limit for stress and motivation" and that "a great deal of effort was required" to find volunteers. This was not a one-off observation,

either, it stated: The problems go much deeper.

For politicians, the findings are dramatic. “It must be emphasized that these structures will make it impossible to significantly increase the number of deportees. Even maintaining the current levels of deportation will only be possible if everyone involved remains highly motivated.”

So what can be done? Necessity knows no law, as the saying goes. One of the first things the Interior Ministry came up with was to pass a decree in September 2018 which did not go down well at all with the Federal Police’s staff council or many deportation escort officers.

Ever since Aamir Ageeb from Sudan suffocated in an airplane while being deported in 1999, only police officers who have completed a 15-day “Personal Air Companion” course are allowed on board planes used for deporting unwanted migrants. At the end of last year, there were 1,269 such qualified officers around Germany. Only around 1,100 are currently in a deployable state. The decree passed in September 2018 states that “further suitable” Federal Police officers may now “be deployed.” That is to say, officers who haven’t completed the 15-day course. But the decree, which is valid until the end of June, leaves open the question of which officers are now suitable.

The Interior Ministry’s decree had merely formalized what had long been standard practice. Under pressure from an increasing number of deportation flights, the Federal Police hadn’t only used untrained officers on the alleged “horror deportation” flight from Berlin to Madrid back in June. For months, the Federal Police has been knowingly operating in a legal gray area. There is evidence that a “mixed” escort team, made up of officers with special deportation training and officers without such specialized knowledge, was deployed on a flight to Kabul last August. After another flight with untrained officers on board, one flight attendant noted that the inexperienced colleagues “hadn’t really known how they were supposed to work on the plane.”

Untrained and Misused

Last February, the Federal Police deployed a class of air escort trainees from the eastern German city of Frankfurt (Oder) onto a deportation flight. Their deployment was billed as “quasi practical training.” In a formal letter of complaint, the Interior Ministry’s main staff council told senior ministry official

Hans-Georg Engelke that now even office clerks were allowed to board deportation flights, regardless of whether they had the necessary vaccinations or even a visa for the target country. "It's irresponsible to misuse untrained civil servants for deportations," says Radek from the police union.

Now, the planned law is expected to at least secure the air escorts some extra remuneration. In addition, there will also be official credit cards, balaclavas and more so-called "spit shields." Subtracting the cost of unappetizing airline food from officers' daily allowance will be a thing of the past. Somehow the Federal Police needs to attract 2,000 escort officers and keep them coming back until 2021. Otherwise the German government's promise of firmer action to ensure that deportations take place will be mere lip service.

The way things are going now, it's already an empty promise. And it doesn't only have to do with ill-equipped civil servants; the system itself is dysfunctional. One Federal Police officer told DER SPIEGEL that deportation flights were routinely canceled, regardless of whether they were supposed to be bringing harmless asylum-seekers out of the country or people who were deemed public safety threats. "If the foreigner isn't in custody, you don't need to bother applying for the job. You get to the airport and he's simply not there, so the deportation is canceled and you don't get paid for your time. I almost only ever apply when the foreigner is in custody," the officer says. "That's what a lot of us do. Otherwise, you take the time to get yourself a visa, it's a ton of work, and it's all for nothing. Somehow they've vanished into thin air."

Again and again, deportation flights were canceled because not enough escort officers had reported for duty, he says. There were "a whole bunch of measures" that didn't happen "because no one volunteered." The most recent example was on Wednesday, Feb. 27. It was a flight from Düsseldorf to Accra, Ghana. Fifty-three foreigners were to be deported, but only 24 showed up. The usual. Of those 24, eight had to be left behind because there weren't enough escorts. In the end, eight foreigners had to be shackled anyway; one had punched an officer in the head, a second kicked an officer in the knee and a third kicked an officer in the stomach.

Arbitrary Limbo

As of Jan. 31, there were 238,740 foreigners in Germany who were "required to

leave the country.” Only half are refugees whose asylum claims have been rejected. Tourists whose visas have expired or students whose semester is over are also required to leave the country. The terminology can be confusing, even for lawyers. In many instances, a “deportation ban” is issued, which translates into a right to stay. Such protection applies when an affected person faces “a significantly concrete threat to limb, life or freedom” or when treatment for a serious disease cannot be guaranteed back home. On top of that, there are many other obstacles to deportation that can lead to a person being given a “tolerated” status.

They include things like serious health concerns or an imminent marriage. If a child living in Germany would lose touch with their father. If someone is caring for a family member in Germany. These are all reasons why deportation may be prevented. In addition, German states have the power to impose deportation bans to certain countries based on their own humanitarian or political reasons. The official position on deportations to Afghanistan, for instance, varies from state to state due to the complicated security situation there. Afghans that make it to Bremen, for instance, have a good chance of being allowed to stay. But if they’re in Bavaria, their country of origin will do little to protect them. When it comes to deportations, German policy is reminiscent of a patchwork rug.



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The system of “tolerated” foreigners has become byzantine. Of the nearly 240,000 foreigners who were required to leave the country at the end of January, 182,169 had a “tolerated” status for a variety of reasons, based on various interpretations of the law. Some people may see a political or humanitarian argument for tolerating refugees, but there’s been a lot of fiddling around lately. For a long time, everything was stuffed into one paragraph of Germany’s Residence Act, from obstacles to deportation to tolerated statuses due to educational enrollment. Now, Paragraph 60a seems so long, complex and at the same time wildly cobbled together that even a renowned legal expert in this field would despair. But now the federal government is planning to restructure the whole thing and, in doing so, make it possible for a migrant to receive tolerated status due to employment.

That means the problems are definitely being worked on. But how! Working groups and sub-working groups from the federal and state level have been meeting regularly for years. Specialists are initiating legislative changes. In the

fall of 2015, their efforts led to the so-called Asylum Package I, and in 2016, the Asylum Package II. Both were designed to weaken the rights of affected foreigners and strengthen the ability of the state to intervene. Regulations were also tightened after Anis Amri's attack on the Berlin Christmas market in December 2016, and in July 2017, a law was created especially for the treatment of individuals deemed threats to public safety. As far as the government was concerned, it had done its job. Yet for all the fiery wording of its lawyers, the government had not created a coherent, uniform legal reality for Germany. And that wasn't only because of the seemingly never-ending back-and-forth between the federal and state governments.

Unhelpful Alliances

Currently, of the roughly 240,000 foreigners who are required to leave Germany, more than 75,000 of them are tolerated "due to a lack of travel documents." But since Germany's Central Registry for Foreigners is so poorly maintained, that number is probably even higher than 100,000, according to estimates by the Interior Ministry. Most of all, they complicate the lives of Germany's immigration officials. The most attention is garnered by those foreigners labeled as "dangerous persons." This is a vague term, derived from police jargon, that is applied to people for whom "certain facts justify the assumption" that they "will commit politically motivated crimes of considerable importance."

It's a tricky needle to thread, because a person cannot be punished in Germany for having certain convictions. People are free to think what they like. Thanks to the part of the Residence Act that refers to people deemed to pose a serious danger to public safety or order, the German government can at least try and keep a close eye on them: Paragraph 58a provides that such dangerous people can be directly deported. At least in theory.

In practice, however, those deportations are often thwarted because the person in question's country of origin doesn't want to take them back. Sure, there are international treaties and repatriation agreements, but a written promise isn't worth much if a country doesn't follow through on it, even if it does bear the signature of a head of state.

Morocco is a perfect example of just how complicated it can be to achieve tangible results with individual countries. In 2016, the Task Force Morocco was

created at the initiative of the state government in North Rhine-Westphalia (NRW), because the number of Moroccan criminals there had risen significantly over the years. Since the 1990s, an agreement has been in place with Morocco over the issuance of passport replacement papers, but it stopped working a long time ago. So the state government got in touch with the Moroccan general consulate in Düsseldorf to make clear to the diplomats that their criminal compatriots in Germany were damaging the reputation of their homeland.

‘It’s Just Not That Simple’

Meanwhile, things have improved, at least slightly — not least because Germany has exerted pressure on a federal level. While Germany once had to send fingerprints to Morocco in the mail in order to check identities and have replacement passports issued, officials now report there is a digital data exchange system in place that is compatible with the German system. Fingerprints can now be transmitted to Morocco instantly — and within 45 days, the Germans receive a response.

In 2016, NRW deported 59 Moroccans. By last year, that number had increased to 382. So the system works, albeit slowly. Morocco doesn’t allow Germany, for instance, to deport its citizens en masse via chartered aircraft. When asked how the situation could be improved, representatives of NRW’s state government suggested the federal government would have to negotiate with Morocco, otherwise the most problematic cases will take years to sort out. “We have thousands of people who are ‘enforceably obliged’ to leave the country,” says NRW’s interior minister, Joachim Stamp. “And whoever reads that, thinks, ‘Are the politicians crazy? Why aren’t these people being deported? But it’s just not that simple.’”

Nothing is simple when it comes to deportations. Not even when it comes to foreigners who have committed multiple crimes and whose presence in Germany is regarded by many as an intolerable provocation. Violent men from crisis countries like Syria, Libya or Gambia, among them alcoholics and drug addicts, only make up a tiny portion of migrants in Germany, but they’re the ones throwing the most fuel on the political fire. How does one regain control of this situation? What should Germany do with a habitual offender like the Pakistani Saïd K., who stormed into the district office in the city of Tuttlingen in May 2018 with a wooden slat full of nails? A man who reportedly later raped a fellow

prisoner? Whose asylum application had already been rejected in 2016, but who couldn't be deported because he didn't possess a valid passport?

Removing Obstacles to Deportation

The perpetrator finally was able to be ejected at the end of January thanks to a special task force at the Baden-Württemberg Interior Ministry. The unit was established in early 2018 to deal with the new situation in the state: Between 2012 and 2017, the number of non-German suspects who had committed at least five crimes a year jumped from 2,807 to 4,058.

The special task force not only has its eye on potential terrorists, but also the most detestable foreign criminals as well. The unit's director, Falk Fritzscht, operates a complex case management system with only a handful of employees. Their stated goal is to accelerate repatriations by "removing obstacles to deportation," Fritzscht says.

To do so, his unit must first determine where a perpetrator is from. Sometimes Fritzscht will personally visit foreign consulates in Stuttgart to discuss missing passports, replacement documents and repatriations. He cooperates closely with various foreigner registration offices, which are overwhelmed by the sheer number of cases. Most of the time, the offices don't have time to arrange for someone's mobile phone data to be analyzed.

Fritzscht maintains contact with public prosecutors' offices, the State Office of Criminal Investigation (LKA), the Office for the Protection of the Constitution and federal ministries. In the case of the Pakistani Saïd K., Fritzscht got in touch with the Foreign Ministry. Through a trusted lawyer, he was able to find the repeat offender's family and determine his country of origin. The special task force in Stuttgart has been able to solve 56 cases using methods like this. "The work we do isn't on a mass scale," Fritzscht says. "We focus on getting people who pose a direct threat to society out of the country." But their case list is growing faster than they can whittle it down; the same is true in other states as well.

Within NRW's Ministry for Children, Families, Refugees and Integration, there is an office called Unit 524, the purview of which is "security conference, extremism." At the moment, it is processing the cases of around 130 foreigners who pose threats to public safety as well as "relevant persons." Last year, NRW, as Germany's most populous state, deported the most people who had been

required to leave Germany. In total, there were 6,603. But there are still around 15,000 more people in NRW who are considered to be enforceably obliged to leave the country.

'Johnnie Walker' Cases

The state of Hesse is fighting a similar battle. In the last year, several "joint working groups for repeat offenders" have been established, pulling from local police forces and employees of the state's foreigner registration offices. Thanks to the work of these units, some 200 habitual offenders have been deported, says Peter Beuth, Hesse's interior minister. He speaks of a "successful model."

In Saxony, a working group with the designation "Residence" inside the state Interior Ministry is working to specifically deport Islamists and criminal foreigners. Estimates put the number of repeat offenders in the state at around 1,600, most of whom are Libyan or Tunisian. Here, too, most of the battles are fought and won on paper: The job is all about overcoming a lack of documents, missing passports or insufficient proof of identity.

For years, officials have complained about how difficult and thankless it can be to find missing travel documents. In Interior Ministry documents, foreigners who don't cooperate in the clarification of their identity are considered "identity swindlers" and "refuseniks." Sometimes, 20 years can go by without determining whether a man is from Burkina Faso or Senegal. In reference to the often fantastic names some refugees like to give themselves, the head of one foreigner registration office calls them "'Johnnie Walker' cases." The authorities have little choice but to send the "Johnnie Walkers" to the embassies of the countries of which they claim to be citizens. But when those embassies then say, sorry, this person isn't one of ours, there's often not much the authorities can do about it.

Even if a person's citizenship can be determined, some countries will still refuse to take them back. Lebanon, for one, was long regarded as one of the most uncooperative countries when it came issuing the necessary passport replacement papers. More than a year ago, German officials noted that "responses to applications are rare. Contact with the embassy is poor." With India, they said, "Processing of passport replacement applications ranges from slow to not at all." And with Iran, the verdict was, "In many cases it is impossible to obtain a replacement passport, since Iran continues to demand a statement of

willingness from the people concerned.” This makes it virtually impossible to deport an Iranian against their will.

The fact that many deportations are thwarted by paperwork isn’t only the fault of prospective deportees’ native countries. German immigration authorities are also overburdened. In some embassies in Berlin, completed passport replacement papers are piling up, according to officials in the federal government. In some diplomatic missions around Berlin, clerks wonder whether their German counterparts are simply too dumb to pick up the documents they themselves requested.

A Mood Shift

Any serious assessment of the current situation must recognize that for a long time, deportations were a taboo subject in Germany, one that politicians were all too happy to avoid. There was basically an implicit consensus that it was wiser not to get involved in such a sensitive issue. Church groups and humanitarian organizations, as well as gung-ho lawyers, did a good job of making a big emotional splash anytime a family or a well-integrated immigrant were adversely affected by deportation. For a long time, many Germans regarded deportations as an expression of an overzealous and unsympathetic state.

But public sentiment shifted in 2015, when more people migrated to Germany than ever before. The mass sexual assaults that occurred in Cologne on new year’s eve that year swept aside any lingering moral ambivalence and had people longing once again for the rule of law. For many people, including many politicians, the “nafris” — a diminutive made up of the German words for “North African habitual offender,” since most of the perpetrators in Cologne had been North African men — could not be deported soon enough. And while they were at it, send all the rejected asylum-seekers back with them, people thought.



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The federal government commissioned McKinsey to conduct an analysis of the deportation process from the ground up. The consultants’ conclusions were entirely to be expected: Things weren’t going so well. They prescribed a give-and-take solution that, on the one hand, foresaw higher financial incentives for voluntary departures, and on the other, more severe penalties for anyone who

resisted. They also recommended closer, more efficient cooperation between the many agencies involved in the deportation process — better “deportation management,” so to speak.

There can be no illusion that this has been achieved yet, even though the various agencies are working together more closely today. There is a central asylum database that can be accessed by any involved agency, for instance; files can be transmitted electronically; and agencies don’t do nearly as much redundant work anymore. But problems remain, to be sure: There are contradictions, loopholes and planning errors that prevent things from going more smoothly.

No Uniform Jurisdiction

And so, a political-administrative consensus on deportations has yet to be reached in Germany. The amount of leniency a rejected asylum-seeker can count on depends on the political constellation of the state in which they find themselves. This confusion also spills over into the courts. Contrary to what one might expect, the administrative courts responsible for matters of asylum don’t always hand down consistent rulings. For instance, some judges think deporting refugees back to Bulgaria — if that’s the first EU country they set foot in — is unconscionable because asylum-seekers are not treated properly there. Other judges, however, have no problem with that. Such contradictions exist because there are no fundamental rulings in asylum law that judges can use as guidance. Court proceedings have been shortened to such an extent that many cases no longer end up in the higher courts, which are usually responsible for ensuring uniform jurisdiction.

“It’s an asylum lottery in the end,” Robert Seegmüller, a judge with Germany’s Federal Administrative Court, said at a recent conference. “And of course everyone then says, ‘Hey, I’ll take part in the lottery. Who knows? Maybe I’ll win.’”

To be fair, when it comes to people deemed to be threats to public safety, the authorities have woken up — also at the federal level. Since Anis Amri’s terrorist attack, the federal government has upped the pressure on North African countries to take back their citizens, whether they are dangerous or not. Tunisia and other countries in the region have, in fact, been notably more cooperative. While only 17 Tunisians were deported back to their home country in 2015, that number had

climbed to 343 by last year. Algeria and Morocco are repatriating 10 times as many citizens now as they did in 2015; last year, the Algerians took back 567, while the Moroccans took back 722.

Desperate Times, Desperate Measures

At the Joint Counterterrorism Center in Berlin, the “Status” working group is currently handling around 660 cases involving Islamists, according to the Interior Ministry. At the center, specialists from multiple agencies look into what measures are possible under German residency law — all the way up to an immediate deportation order by the interior minister himself. When it comes to deporting criminals, they receive support from the task force “Security” at the Joint Center for Repatriation Support, which was created in 2017. Currently, 120 cases are being processed there. In addition, the Interior Ministry has also set up another task force — “Public Threat” — to help the states deport Islamists and habitual offenders.

The ministry has some other measures in the works too. For the next few weeks, Chancellor Angela Merkel’s cabinet will be drafting an “Orderly Return Law.” Corresponding working papers circulating internally seem to have been compiled with an eye to state elections this fall. Prerequisites for being awarded a “tolerated” residency status are to be curtailed. Anyone who is demonstrably at fault for not having the necessary papers to be deported, or anyone who is caught cheating or swindling, will from now on be given a “less than tolerated” status and be required to live in group housing without the ability to work. Refugee aid organizations will also face legal recourse if they warn people of impending deportations or other planned measures.

In the future, it will also be easier to place migrants in custody pending deportation. German Interior Minister Horst Seehofer also intends to flout existing EU law in order to hold people awaiting deportation in normal jails. Much like U.S. President Donald Trump invoked his executive privilege to declare a state of emergency, Seehofer argues that desperate times call for desperate measures. Given that there is only space for 479 people in Germany’s pre-deportation detention centers, and the German states still have to create more space for the deportees, he argues the EU’s separation rule should be suspended for three years.



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Much of this seems like political whitewashing. Instead of creating a new space in Germany for asylum and immigration law and convincing federal states to adopt a common policy, Germany's approach is jumbled and confused. The German Federal Office for Migration and Refugees (BAMF), determines which asylum-seekers may stay and which must go, and it's also responsible for processing cases that fall within the purview of the Dublin Regulation. Deportations and "tolerated" statuses fall under the jurisdiction of the central foreigner registration offices and the around 600 municipal foreign registration offices in the various states. When a deportation is imminent, employees from a state's foreigner registration office or the state police will pick the person up and drive them to the airport. On the plane, however, deportees are accompanied by Federal Police officers. A layperson could be forgiven for not fully understanding Germany's complicated deportation structures. Even those directly involved sometimes have a hard time wrapping their brains around it. And wherever there is institutional confusion or legal gray areas, novel workarounds are bound to arise.

An Atmospheric Shift

"Church asylum" is one such workaround. Officially it doesn't exist, yet somehow it's tolerated. At any rate, this phenomenon involving churches helping to protect people from deportation, causes regular tension between authorities and representatives of the church. In 2015, BAMF and emissaries of both churches agreed upon the current wording: "The participants agree that church asylum is not an independent institution existing outside the rule of law, but rather has established itself as a Christian-humanitarian tradition." It's essentially a truce agreement.

Since then, public prosecutors' offices have regularly gone after representatives of the church for aiding and abetting illegal residency, but they nearly always let them off the hook eventually. Most of the lawyers are annoyed by this practice since they are legally obliged to look for violations of the law, making them seem like callous bureaucrats in the public eye while priests and ministers and their congregations get to look like heroes.

Some 3,000 migrants have at least temporarily entered church asylum since 2017, though that number has declined steadily as laws have been tightened.

Whereas in 2017, between 100 and 200 new church asylum cases were being reported every month, there have only been around 60 a month since August 2018. But the decline does not change the fundamental legal dilemma. Church asylum, as it were, has become a favorite topic of Germany's far-right Alternative for Germany (AfD) party. In the German parliament, the Bundestag, as well as in several state parliaments, the party has agitated against the concept, which it says has "no legal basis" — the government was "granting the church a de facto special role as an advocate for asylum-seekers."

The AfD isn't alone in its condemnation. Throughout Europe, the mood toward asylum-seekers has become much less sympathetic. This is just as true in Italy as it is in Austria and Hungary. The Scandinavians were long viewed as being the most liberal in Europe, but now even they have adopted stricter rules and regulations for new arrivals. This has had something of a domino effect. According to documents from the Federal Police, the number of refugees who have moved to Germany after seeking asylum in Scandinavia has been rising steadily for years. Experts call this secondary migration, and according to the Federal Police, it is attributable to the Scandinavians' stricter immigration policies.

Denmark has cut social expenditures for refugees and wants to enforce deportations more consistently. Finland's public agencies can require asylum-seekers to live in specially designated housing and regularly check in with authorities. Norway has also considerably tightened its deportation policy. In Sweden, rejected asylum-seekers receive less social assistance than before. Europe is witnessing an atmospheric shift, even in places where the climate toward refugees has been relatively mild until now.

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