

Germany's Response to the Refugee Situation: Remarkable Leadership or Fait Accompli?

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Introduction

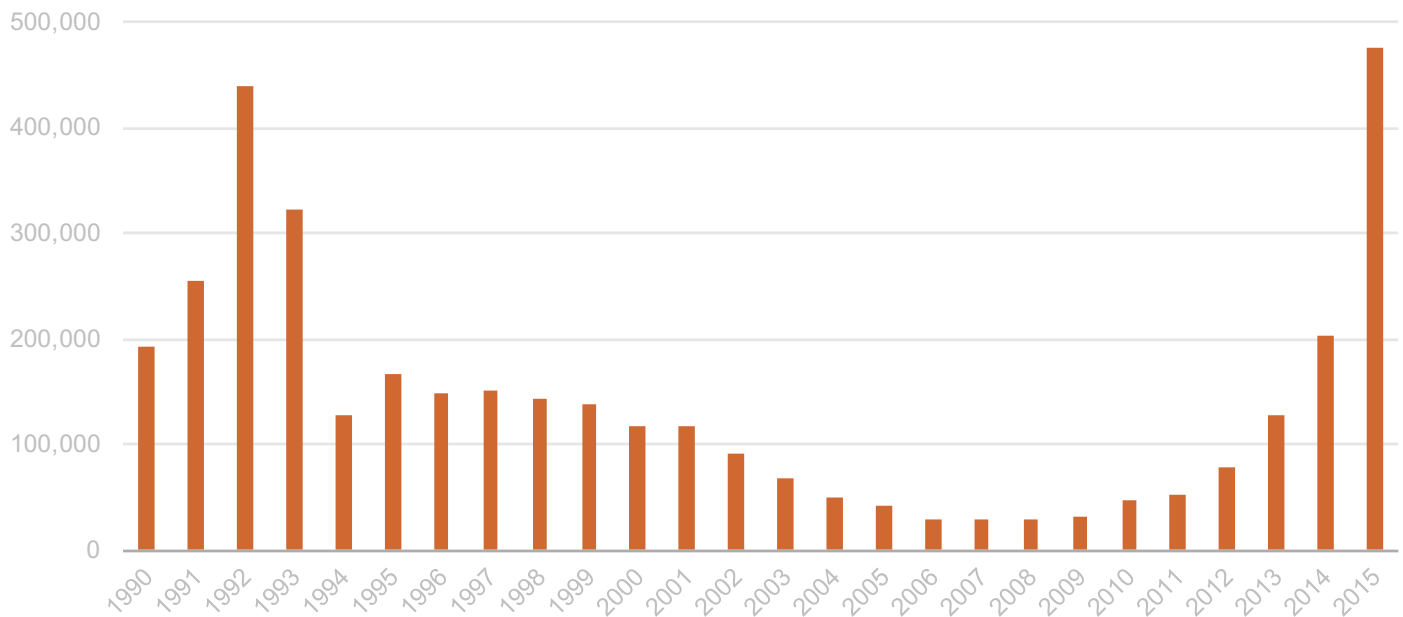
With the Islamic State group terrorizing large parts of Iraq and Syria, the Syrian civil war raging with no end in sight, and the situation for refugees deteriorating in Jordan and Lebanon, more and more people in the Middle East have decided to flee to the European Union in an attempt to claim asylum. The arrival of asylum seekers has tested member states' ability to respond to crises with a united front, a test that they have failed. As a result of the EU's inability to collectively address the new arrivals, states started unilaterally closing their borders. Even Sweden, which had initially taken in more refugees per capita than any other state, introduced restrictions to its asylum policy and sealed its frontiers. Eventually, Germany was the only state left in the 28-member bloc that kept its borders open. German Chancellor Angela Merkel and her government had maintained this position despite fierce criticism from EU neighbors, German politicians and the German people. Why has Germany bucked the European trend, maintaining its open borders and welcoming approach toward refugees?

Migration in Postwar Germany

The right to asylum was first guaranteed by Germany's Basic Law in 1948 as a direct reaction to the Holocaust. The law reflects the responsibility that the country continues to shoulder for its past. The right to asylum was defined broadly and without restriction: Never should people fleeing persecution or death be denied protection. Since the introduction of the Basic Law, Germany has prided itself on being a safe haven for those in need.

Shortly after the end of World War II, an export-driven boom caused the German economy to expand significantly, creating a large blue-collar labor shortage. Bilateral labor recruitment agreements were established with Italy, Spain, Greece, Turkey, Morocco, Portugal, Tunisia and Yugoslavia in the 1950s and 1960s. Migration was ostensibly temporary, and there were no policies in place to help guest workers integrate. The state offered no comprehensive language courses, made it difficult for immigrants to naturalize and gave no discernable political signals that the immigrants would be welcome on a permanent basis. After the oil crisis hit in 1973, the infamous *Anwerbestop* ("recruitment stop") ended the guest worker programs, but migration flows to Germany continued as migrants sought to join relatives who were already there. Against the backdrop of slowing economic growth, the foreign population struggled to integrate into the education system and labor market.

In the early 1990s, when the war in former Yugoslavia forced a record number of people to flee the Balkans and claim asylum in other European countries, German asylum policy faced its first litmus test. The wave of asylum seekers from the war-torn region engendered social tensions and xenophobia in Germany. In response to this backlash, the German government implemented the so-called asylum compromise, which came into force in March 1993. Its objective was to minimize the risk of the German asylum laws being abused, as well as to reduce the number of asylum seekers entering the country.¹ As a result, the number of people seeking asylum in Germany dropped drastically between 1993 and

Figure 1: Asylum Claims in Germany (initial and subsequent applications)

Source: Bundesamt für Migration und Flüchtlinge (2015a, 2016a)

1994, as Figure 1 shows, before rebounding again almost two decades later.

Although the number of refugees and migrants entering the country increased, German policymakers did not adequately address issues facing the growing foreign-born population until the early 2000s. At that time, there was a growing feeling that Germany would need to correct the integration mistakes of the past and become more welcoming to new migrants. This idea gained momentum in light of sectoral and regional labor shortages and the graying of the German population. In 2005, the government passed the Residence Act, which provided structural integration measures such as language courses and new channels for migration based on demands of the labor market. These regulations have been liberalized on several occasions. Today, the paradigm shift from the guest-worker era is complete, and Germany is now one of the most open nations to migration among OECD countries. It is also beginning to incorporate diversity into its national identity: Around 20 percent of the German population has a migration background, meaning that either they or their parents were born abroad.

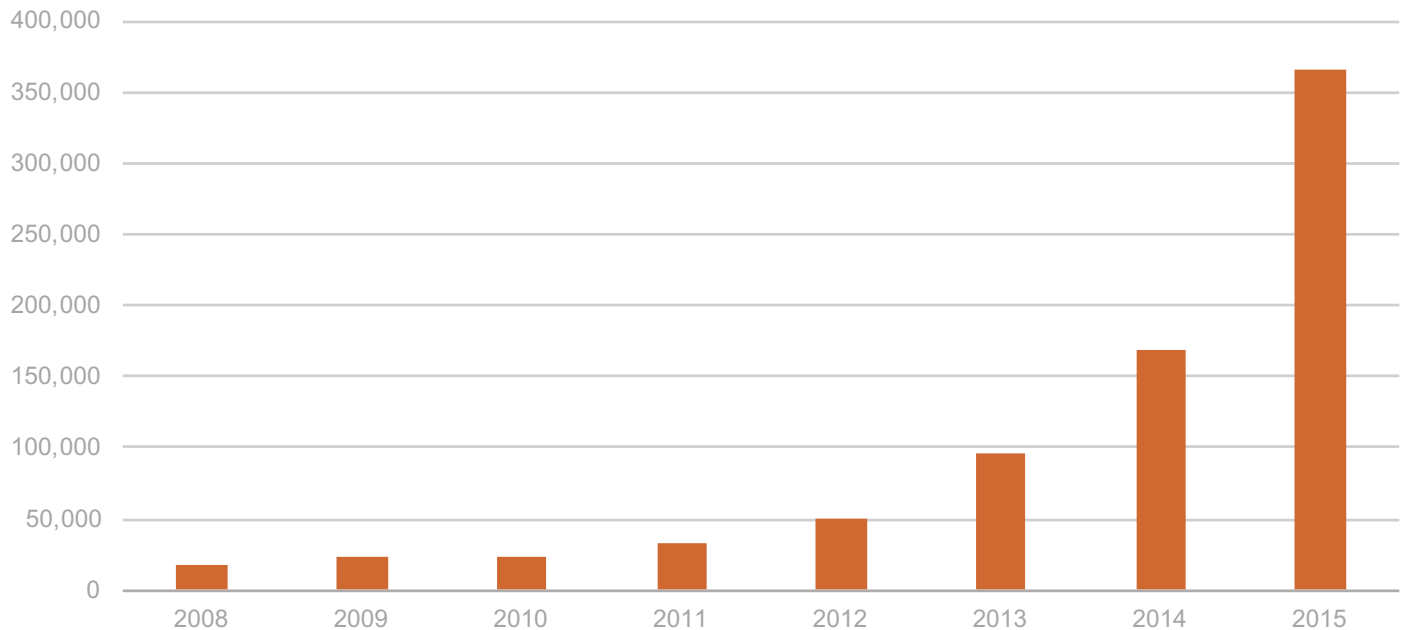
Despite this progress, labor market outcomes for foreign-born residents tend to be worse than those for the German-born population. In 2015, 58.5 percent of Germans between the ages of 15 and 65 were employed and contributed to the

social welfare system, compared with just 44 percent of foreign-born residents.² Stark differences with regard to migration also exist between the former East and West Germany. In eastern Germany less than 5 percent of the population has a so-called migration background, while in former West Germany the figure is 23 percent.³

Asylum Claims in the 21st Century

Between 2000 and 2005, fewer than 100,000 asylum applications were filed per year, and between 2005 and 2010 that figure fell to less than 50,000. However, with violent upheavals in the Middle East, the number of people claiming asylum in Germany started to rise again in 2011, reaching more than 200,000 in 2014.

In 2015, nearly 1.1 million asylum seekers entered Germany, but only 476,649 were able to file for asylum. Those who register face long waiting times to file their official asylum claims, largely due to the fact that German authorities have been overwhelmed by the high number of applicants. The Federal Office for Migration and Refugees (BAMF) did not have the administrative capacity to process such a deluge of applications, and there is currently a large and growing backlog. As early as 2014, the system showed signs of strain, as the number of registered asylum seekers exceeded the number of filed asylum claims by almost 20 percent. The number of

Figure 2: Pending Asylum Claims in Germany (initial and subsequent applications)

Source: Bundesamt für Migration und Flüchtlinge (2015b, 2016a)

pending asylum applications rose significantly over the past two years, as shown in Figure 2.

Germany has taken in far more asylum seekers than its European neighbors, and that gap is widening, with the United Kingdom, France and Italy only taking in a small proportion of the total number seeking asylum in Europe.

Who is Seeking Refuge?

Although the single largest factor driving asylum seekers to flee to Europe has been the Syrian civil war, the refugees arriving in Germany come from various countries of origin, and with different motivations for leaving their home countries in search of protection. Table 1 provides an overview of the nationalities of those who have filed the largest number of asylum claims and their respective protection rates.

The acceptance rate for asylum seekers varies greatly depending on the political and security situation on the ground in each of their countries of origin. Those fleeing conflict from places such as Syria (162,510 asylum claims in 2015) and Iraq (31,379 in 2015) are most likely to be granted asylum. Their recognition rates in 2015 were 96 percent for Syrians and 88.6 percent for Iraqis. Stateless people, such as Kurds and Palestinians from Syria, fleeing the Syrian civil war and

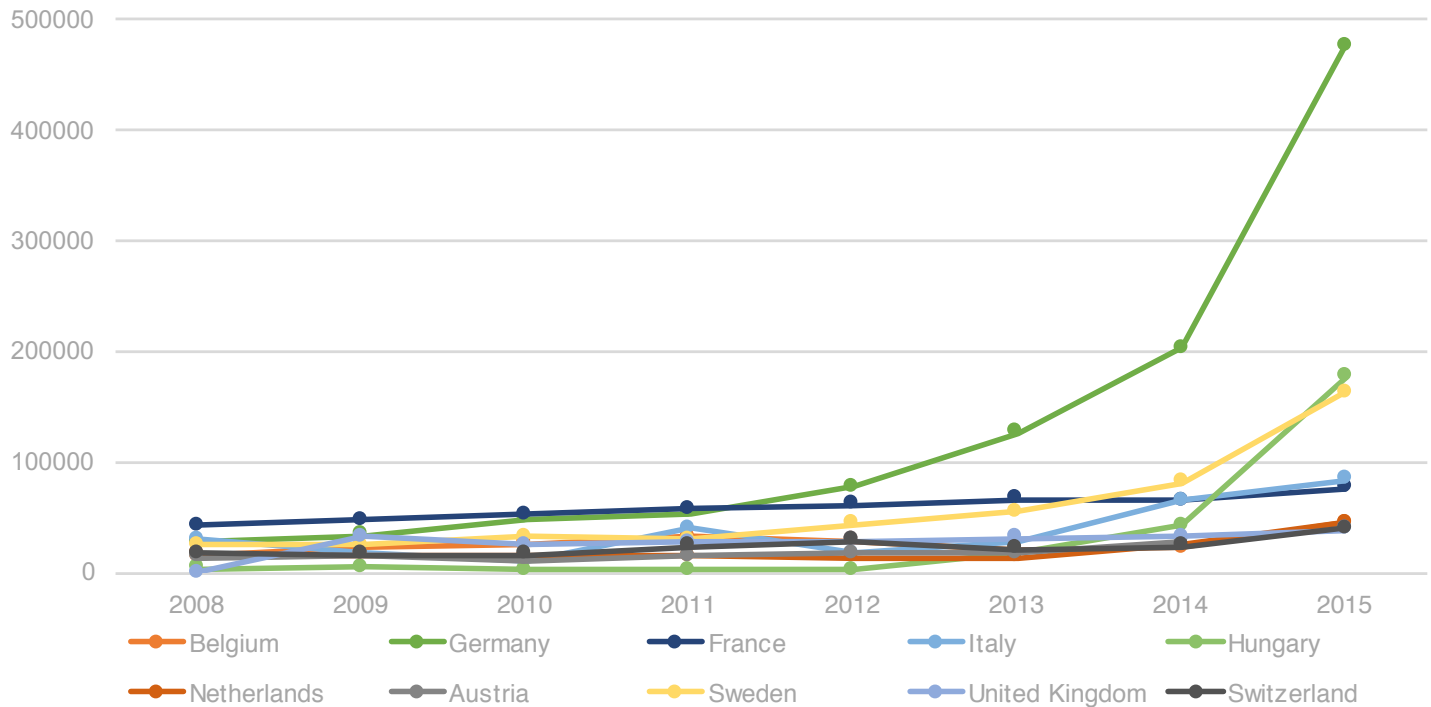
terror of the Islamic State group, also maintain the high protection rate of 80.2 percent.⁴

Acceptance rates are high (92.1 percent in 2015) for those escaping Eritrea, where rampant human rights violations, including torture and executions, have forced many people to flee.

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Afghanistan continues to suffer as the Taliban and other political groups wage war there, and Pakistan struggles amid domestic political conflicts and human rights violations, but asylum seekers from those countries have seen much lower acceptance rates. In 2015, the protection rate for Afghan nationals was 47.6 percent, and for Pakistanis it was only 9.8 percent. The acceptance rate is so low because German

Figure 3: Asylum Claims in Europe, Ten Countries with Largest Intake (2008-2015) (initial and subsequent applications)



Source: Author's calculation based on Statistisches Bundesamt 2015b

officials believe that those asylum applicants could find protection in safer regions of their own countries.

Those who hope to escape economic hardship in places such as the Western Balkans, as well as some North African countries, typically do not meet the criteria for asylum and are unlikely to be offered protection in Germany.

Major Inflow of Refugees in Mid-2015

Chronic underfunding of organizations such as the UN World Food Programme led to reduced food allowances for refugees in Jordan and Lebanon in early 2015. The monthly food allowance in Lebanon was \$13.50 per person in 2015, compared to \$27 in 2014.⁵ The deteriorating circumstances drove many refugees to seek better living conditions elsewhere.

In mid-June 2015, the government of Macedonia allowed passage through the country on to northern Europe, a path that had previously been closed. This opened a Balkan route, which allowed refugees to avoid the more dangerous and expensive journey from Libya to Italy and instead cross a much shorter sea route from Turkey to Greece. According

to the Washington Post, the price for passage dropped from \$5,000-\$6,000 to \$2,000-\$3,000.⁶

Asylum claims are normally subject to the Dublin Regulation, which stipulates that the first EU member state that an asylum seeker enters, and the one in which they have been fingerprinted, is responsible for handling the claim. Other member states are expected to return asylum seekers back to the EU point of entry. However, Germany suspended the Dublin Regulation for Syrian refugees, which allowed officials to process asylum claims regardless of whether the applicant had entered the EU through another member state.

By late summer, the number of refugees fleeing to Central and Western Europe had increased significantly. The situation in Hungary escalated, as thousands of refugees left camps in a dangerous attempt to reach Austria by foot on public roads. On the night of September 4, Germany and Austria decided to open their borders for these refugees in order to avoid a humanitarian disaster.

The Washington Post reported that Merkel's public pledge that Germany would offer temporary residence to refugees

Table 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)

arriving in her country, together with television footage of cheering Germans welcoming new arrivals, encouraged more refugees from the Middle East to make their way to Germany via the Balkan route.⁷

Merkel's pronouncement has remained the cornerstone of Germany's refugee policy—despite mounting resistance within Germany, even from within her own party, and from many other European governments. Her famous “We can do it!” (“*Wir schaffen das!*”) has become the credo of the German government's open and humanitarian stance on the European refugee crisis of 2015-2016. Although Germany remains open to those in need of protection and the requisite programs that facilitate integration, certain aspects of German asylum legislation have been made more restrictive in recent months.

The aim of these changes has been to dissuade people from countries with low protection rates—those highly unlikely to have their claims granted—from making the journey in the first place, and at the same time to streamline the asylum process for those who are likely to be granted protection. Recently implemented measures include simplifying the process by which rejected asylum seekers are deported, suspending family reunification for those with subsidiary protection (meaning that the person does not qualify for refugee status, but it would be unsafe for them to return to their home country) and expanding the list of safe countries of origin.

Why Did Germany Keep its Borders Open?

As its neighbors began closing their borders to refugees, Germany confounded observers both at home and abroad by

resolutely holding onto its open-door policy. Much has been conjectured about why Germany took the path that it did, but the key factors below explain what shaped the Federal Republic's refugee policy:

1. Willkommenskultur

A survey commissioned by the Bertelsmann Stiftung found that Germans are increasingly more comfortable with the notion that Germany is becoming a country of immigrants, particularly in former West Germany.⁸ Although some right-wing movements, such as the Alternative for Germany (AfD), have gained momentum, the numbers show that a large majority of Germans believe their country should be open to seekers of refuge. Even in July 2015, when the inflow of asylum seekers had already increased considerably, 93 percent supported welcoming people who sought to escape war or civil conflict. Eighty percent expressed the view that Germany should accept people seeking refuge from political or religious persecution.⁹

Germans are increasingly more comfortable with the notion that Germany is becoming a country of immigrants

A more recent study confirms these findings: The average level of support for granting asylum to a person who is persecuted on political grounds is 94 percent.¹⁰

This openness is also reflected in the public response to the refugee crisis. Many Germans have committed themselves to civil society initiatives that aid refugees arriving in the country, especially when German authorities were stretched to their limits. Civic activities include the provision of basic needs, such as accommodation, information, transportation and clothing.¹¹

2. Merkel's Personal Project

Merkel is clearly the face of Germany's refugee policy. Before the summer of 2015, Merkel's style of politics was characterized by pragmatism and incremental steps, rather than following a sweeping political vision. Now, in a departure from her usual style, Merkel has made Germany's open asylum policy her personal political project—despite strong resistance from many quarters.

Although observers can only speculate, many cite two encounters in particular as critical to shaping Merkel's stance on refugees. In July 2015, Reem Sahwil, a 13-year-old Palestinian refugee, confronted the chancellor during a discussion with students in the northeastern city of Rostock. Sahwil spoke articulately in German about her desire to stay in the country and receive an education, but expressed anxiety that the uncertain status of her asylum claim left her future in doubt. Merkel stiffly explained that it was impossible for Germany to accept all refugees. The girl broke down in tears, the chancellor patted her on her shoulder in an awkward attempt at a comforting gesture, and a video of the interaction went viral.

In late August, Merkel visited a refugee shelter in the town of Heidenau, in the eastern state of Saxony. Outside the shelter, a furious crowd of German residents assembled, shouting insults at Merkel—a level of public confrontation she had not previously experienced in her tenure as chancellor.¹²

Soon after these events, at her annual summer press conference in Berlin, Merkel changed her tone. She clearly articulated that Germany was strong enough to help all of those in need. This was the first time she uttered the “We can do it!” slogan. Merkel made a decision that Germany would honor its historical commitment to protect refugees. She had found her political project, her vision, and was ready to fight for it. Many commentators have linked this course to her personal biography, the daughter of a socialist pastor who grew up in East Germany behind a large fence.¹³ Some have even argued that she seemed more passionate and at ease with herself than ever.¹⁴

3. Too Late to Turn Back?

Even before Merkel took her stand, Germany's openness had provided safety for many refugees. Nonetheless, some critical reflection is appropriate, as there were warning signs that the relatively small number of asylum seekers entering Germany between 2003 and 2012 would soon snowball. At the time, policymakers were too distracted by the Russian military intervention in Ukraine and the Greek financial crisis to react to the growing stream of refugees arriving in Europe.

First, the Dublin Regulation, discussed earlier, shifted the burden of processing arrivals to southern “frontier countries” such as Italy and Greece. These over-burdened states, it became clear in the months and years before the refugee crisis exploded, were struggling to accommodate a growing number of asylum seekers. Their northern EU partners did not provide enough support,¹⁵ and no decisive European action was taken to resolve the problem.

30 to 40 percent of refugees have work experience that is potentially relevant to the German labor market

A second warning sign was the ever-increasing number of asylum seekers arriving in Germany from outside the EU, as shown in Figure 1. BAMF was finding it difficult to cope even before the summer of 2015. In March 2015, the executive director of the EU border agency Frontex, Fabrice Leggeri, estimated that there were between 500,000 and 1,000,000 migrants in Libya ready to leave for Europe.¹⁶ According to the German newspaper, *Die Welt*, German diplomats in Pristina, Kosovo informed the Federal Foreign Office that increasing numbers from Kosovo were migrating to Germany via Serbia—approximately 800 to 1,000 per day, but the actual numbers may have been higher.¹⁷ Still, neither the EU nor Germany itself took action.

Thus, there were harbingers of a growing flow of refugees to Germany, and more broadly the EU, long before summer 2015. No significant measures were taken by policymakers, such as increasing BAMF's capacity to process asylum claims. The failure to act earlier despite these warning signs left the German government with only two choices in August 2015: keep the borders open for people fleeing to Germany, or risk a humanitarian catastrophe.

4. Demographic Boon?

Some international media reports have suggested that Germany's unfavorable demographics and existing labor shortages in certain sectors and regions played a role in its welcoming policy toward refugees from the Middle East.^{18,19} It is true that Germany's population is shrinking and aging. If labor force participation rates were to remain constant, without immigrants, the number of people of working age would decrease 36 percent, from approximately 45 million today to less than 29 million in 2050.²⁰

The solid labor market and low unemployment of 2015 certainly helped bolster the German position toward refugees despite the lack of support from other European countries. However, the rationale behind Germany's policy was a humanitarian calculation rather than an economic one. Few refugees speak German or, for that matter, English, and many lack the professional qualifications needed to enter

Germany's labor market. The market is notoriously difficult for foreigners to enter because qualifications from abroad are often not accepted, and even blue-collar professions may require years of training. Existing literature suggests that only around 20 percent of refugees in Germany hold a vocational qualification or university education, while 30 to 40 percent (at best) have work experience that is potentially relevant to the German labor market.²¹ Integrating most refugees into the regular labor market would require significant investment from both the government and private sector. Furthermore, it is unclear how many refugees will remain in Germany on a long-term basis, as some may return to their home countries if the situation there improves. Thus, Merkel's decision to support refugees was made without any attempt to address labor shortages or offset demographic shifts.

Key Challenges and Potential Solutions

Now that Germany has allowed more than 1 million asylum seekers through its borders, it must find a way to effectively and efficiently respond to the challenges that follow. Although these challenges range in scale and time frame, it is critical that Germany address them so as to ensure the well-being of the refugees, domestic security and broader global stability.

1. Germany Needs an Effective and Flexible Asylum System

German authorities on various levels were unprepared for the large number of refugees that arrived in 2015, leading to major delays in the asylum process. The country lacked a common database of registered asylum seekers that could be accessed by relevant authorities. As a result, some people were registered multiple times, while others may have moved to another country or even returned to their country of origin without documentation. Thus, the government does not have a complete list of asylum seekers in the country, which is problematic from a security perspective. BAMF is implementing new information technology, but it was not expected to be fully operational before summer or autumn 2016.

Another administrative issue is that refugees often have to wait weeks or even months after being registered before they can actually file their asylum claim. This backlog continues to grow: By late February 2016, the number of pending cases was approximately 393,000—more than double the figure from the previous year.²² Beyond the challenges of registering asylum seekers, many municipalities struggle to provide appropriate housing for them; asylum seekers are put in makeshift dormitories in exhibition halls or gymnasiums.

Germany needs to increase its capacity to process asylum claims efficiently, provide adequate housing, better integrate those with protection status into society, and keep careful track of the identities of asylum seekers in the country. It is

important that German authorities demonstrate their ability to act. This will require a massive effort now because opportunities to improve capacity in recent years were missed.

It is equally important to keep the asylum system flexible so it can cope with fluctuating demand. The number of refugees could drop again, meaning resources would need to be reallocated. In this regard, it would be worthwhile to discuss the role of the EU. For example, a European asylum agency that provides extra support to national agencies in particular times of need is an option.

More broadly, migration policy needs to be based on a forward-looking and coherent strategy. It cannot consist of short-term and reactive crisis management. Migration flows need to be monitored, and large spikes need to be forecasted as far ahead as possible.

Finally, an effective and fair asylum policy should be insulated from populist debates, but at the same time not left for elites to shape on their own.²³ This is a delicate task, and to strike the right balance, a strong civil society and transparent and logical policymaking are needed.

2. Workforce Integration

Integrating refugees in the labor market is a central task, both so that refugees have control over their own lives and so they can contribute to the economy and society. Germany needs a comprehensive process to achieve this, one that complements a strengthened asylum process with language training, establishment and certification of informal and non-formal competencies, professional orientation, placement in apprenticeships, and further education. Counseling and mentoring programs must supplement these initiatives.

To make such a process available to refugees all over Germany, significant investments are necessary. The German Institute for Economic Research (DIW) predicts that the macroeconomic effects of the current refugee migration will yield a net positive after three years at best and 10 years at worst. Consequently, investments that increase and accelerate labor market integration would be economically beneficial.

3. The EU Needs a Sustainable and Humane Asylum System

In 2015, EU member states received in total approximately 1.3 million asylum claims.²⁴ Fairly distributed, this is a manageable figure. However, Germany, Hungary and Sweden alone received 62 percent of claims, and their share of the actual inflow of asylum seekers is even higher.

For a bloc of 28 wealthy countries, 1.3 million asylum claims does not inherently amount to a crisis. However, since only

a few countries have accommodated asylum seekers, the situation is difficult to manage in a way that is both effective and fair to the refugees and host countries. It is challenging to imagine a sustainable solution for the current refugee crisis that does not involve the EU member states coming together to more fairly share the burden.

The obvious result of their failure to do so has been that Germany has had to process a large proportion of asylum claims. Some elsewhere in Europe felt that Germany's open-door policy induced more refugees to migrate—mostly on the Balkan route—which, in turn, put strain on transit countries between the Middle East and Germany (such as Austria, Hungary, Slovenia and Croatia).

Without a concerted European solution, chaotic migrant flows and human rights violations will follow

Even if those countries chose not to accept refugees, asylum seekers bound for Germany had to pass through them. The observable results were closed borders and humanitarian nightmares. After the Balkan countries shut their borders in March 2016, tens of thousands of refugees bound for Germany were trapped in Greece. When one route closed, refugees found a new way. In this case, refugees started to make their way through Macedonia, where the government tried to detain them.

In an attempt to curb irregular migration from Turkey to Europe, the EU and Turkey negotiated an agreement stipulating that, as of March 20, 2016, all irregular migrants crossing from Turkey to the Greek islands (EU territory) would be returned to Turkey. For every Syrian returned to Turkey, another Syrian would be resettled in the EU, distributed among EU member states. However, the agreement is not a sustainable solution to manage refugee flows. First, the resettlement process is too slow. As of mid-June 2016, only 511 Syrian refugees were resettled under this agreement.²⁵ Thus, the pact does not offer a significant legal route for refugees to enter the EU, but rather functions as a cork to stop the refugee influx. Second, there have been allegations of human rights violations of refugees in Turkey. Finally, the agreement rests on shaky political grounds. Under the agreement, the EU is supposed to both provide Turkey with significant financial assistance and lift visa requirements for Turkish

citizens. Given the current unstable political climate within Turkey including a failed coup in July 2016, the EU might decide against lifting the visa requirements. If this were to happen, Turkey might abandon the agreement.

Without a sustainable and concerted European solution, chaotic migrant flows and human rights violations will follow. The borderless Europe that has been achieved with the Schengen Agreement is at risk. The best of all options would be to establish an EU system that enables states to accept refugees directly from refugee camps in crisis countries or their neighboring states.²⁶ This would address the trafficking system and discourage refugees from making dangerous sea journeys. Such a system should be based on a specific distribution mechanism. One potential option is a system that takes into account economic strength, size of the population, size of the country's land area and unemployment in the receiving country.²⁷ Unfortunately only a few countries, including Germany and Sweden, currently have the political will to put such a system in place.

4. Tackling Root Causes: Sustainable Foreign, Economic and Trade Policy

A sustainable solution to the large asylum inflows to the EU must address the root causes of forced migration. This is an extremely challenging task and might require EU member states to make concessions. Tackling the root causes includes ending the conflict in Syria and putting a stop to the terror of the Islamic State group. In addition, it involves sustainable development assistance for the refugees' home countries. This could mean reducing subsidies for agricultural production in Europe or improving the prospects for businesses in developing countries. The latter could be achieved through simplifying remittance transfers and targeted investments by the diaspora community.

Asylum policy can no longer be reduced to dealing with the people who arrive at our doorstep. Rather, it must acknowledge the connectedness of the world and the fact that people emigrate out of desperation. It is time that the EU, the United States and the world's other developed economies tackle the root causes of migration flows. If they do not, the number of migrants to Europe is bound to increase further.

A Final Word

Policymakers around the world should be watching the decisions made in Brussels, Berlin and Ankara closely. The response of Europe and its neighbors is setting new precedents and standards for the handling of large movements of displaced people. Decisions made this year will have a major impact on the way in which such issues are handled globally in the future.

ABOUT THE AUTHOR

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