



## Health Impact of European Refugee Policies

This case was written by **Dr Eva-Maria Schwienhorst (MD)**, **Katharina Bögel (MA)** and **Nora Isberner**, Medical Mission Institute (Germany), with the support of Dr Hannah Maike Albers and Nele Rüttgerodt. It was edited by Charlotte Butler, Project Consultant. The case is intended to be used as the basis for group work and class discussion rather than to illustrate either effective or ineffective handling of a Medical Peace Work situation.

© 2015, [medicalpeacework.org](http://medicalpeacework.org) and the authors

All rights reserved. Permission is granted for non-commercial reproduction, translation and distribution of the case study, as long as [medicalpeacwork.org](http://medicalpeacwork.org) and the authors are given credit.

[medicalpeacwork.org](http://medicalpeacwork.org) and the authors do not guarantee that the information in this case study is complete and correct and shall not be liable for any damages incurred as a result of its use.



**Erasmus+**

This case study was funded with support from the European Commission. It reflects only the authors' view. Erasmus+ and the Commission are not responsible for any use that may be made of the information it contains.

“What on earth is going on here?” Dr David Paul, the emergency doctor on call at the Medical Mission Hospital in Würzburg, Germany, asked himself as he arrived at the camp for asylum seekers.

It was a cold autumn day in October 2013. Stepping out of the ambulance he didn't know where he should look first. A pregnant woman sat on a staircase leading to the accommodation block, screaming and wailing in a foreign language that David did not understand. She was desperately holding onto a man, possibly her husband, who sat next to her. Two paramedics were standing next to them – one leaning towards the woman and looking as if he tried to catch her attention. While the other paramedic started to brief David about what was going on, two policemen tried to pacify an enraged crowd of about twenty people who had gathered a few metres away from the staircase. Taking a deep breath, David stepped forward to try and calm the pregnant woman.

### **David Paul**

David had been working for three years at the Medical Mission Hospital, a medium-sized urban hospital in Würzburg. Last year, he had completed two years of advanced training in emergency medicine.

During his first shifts as emergency doctor, every call had been accompanied by a feeling of excitement and uncertainty about what to expect. Recently, however, a certain routine had taken over and David now realised that many of the cases he tended to did not really require a doctor. As David assessed the scene, his first thought was therefore that this was a simple panic attack – one that could be easily handled by the two paramedics who had first been called to the scene.

However, as he was to realise quite quickly, this case was quite different. It would challenge him in a way that he had never experienced before.

### **Emergency doctor**

In Germany, an emergency doctor is called if certain disease patterns are reported and he or she then works alongside the paramedics at the scene. This differs from systems in other countries where paramedics alone respond to an emergency call, stabilise the patient and then escort him or her to the Accident and Emergency Department where a resident emergency doctor takes over.

The main tasks of an emergency doctor in the field include giving live-saving medical assistance, stabilising a patient for transport, administering pain relief, monitoring severely injured/sick patients during transport, terminating medical/support measures as necessary, confirming a death

and issuing a death certificate. Two years of extra training is compulsory for physicians who wish to work as emergency doctors.

### **David's initial assessment**

“My name is Dr Paul, I am the emergency doctor. Could you please tell me what has happened?” As David introduced himself he could tell that his presence was not making the situation any better for the pregnant woman. Instead of responding, she began to cry harder and, with panic in her voice spoke to her husband in a foreign language. Realising that the woman obviously did not understand him, David tried to speak to the husband, who answered in German with a heavy accent: “Please! I don’t want to leave my wife and baby alone!”

Puzzled, David looked to the police for more information about what was happening.

“We were ordered to deport this man to Poland,” one of the police officers began. “But when we arrived, we realised that he had a wife who is pregnant, so we immediately called the head of the foreigner’s department to double check if we should go ahead. We were told to proceed with the deportation nonetheless, since this is not a legal cause for stopping a deportation. But we couldn't continue with the deportation because the pregnant woman turned hysterical. She cried and screamed and held on to her husband. Then she started to gesture wildly and I became worried that she would hurt herself.”

“So we called our boss again to tell him that it was going to be impossible to deport this man, but again we were ordered to proceed. Since we were afraid that her panic attack might harm the baby, we had no choice but to call the ambulance.” The policeman was shaking his head in disbelief while telling the story, clearly angry that he was supposed to carry out the deportation under these circumstances. “I don’t see why we don’t just carry on with the deportation,” mumbled the other policeman at the scene. “It's not our task to decide who is deported and who stays here. Let’s not make a big drama out of it.”

“When we arrived,” interrupted one of the paramedics, a stocky man in his mid-forties, “the woman had already calmed down a little. She was obviously very scared. As she does not speak any German, we couldn't communicate with her at all. Luckily, her husband speaks some German, so we were able to at least check her vital signs. They were fine. She is 28 weeks into her pregnancy, but we don’t have any additional information. She refused both to be examined further and to be taken to a hospital without her husband accompanying her. She really should undergo a check so that we know the baby is okay.”

David was puzzled. He had never had to deal with asylum seekers before and had no idea what to do in such a situation. They hadn't touched upon this subject at all during the training. What should his role be?

## **Asylum seekers and refugees in the EU and Germany**

### **Asylum and EU legislation**

The Charter of Fundamental Rights of the European Union guarantees the right to seek asylum (Art. 18) and forbids the removal, expulsion or extradition of refugees (Art. 19). Furthermore, the right of asylum is enshrined in the German constitution Article 16a (Deutscher Bundestag, 1949) (Exhibit 1).

### **Asylum Seekers and Refugees**

According to the United Nations High Commissioner for Refugees (UNHCR) "an asylum-seeker is [...] someone who says he or she is a refugee, but whose claim has not yet been definitively evaluated" (UNHCR, n.d.) (Exhibit 1).

### **Refugees in Germany – From where and why?**

According to Pro Asyl, a German NGO formed in the 1980s to protect the rights of refugees, 109,580 asylum applications were submitted in Germany in 2013. Asylum seekers worldwide are mainly from Afghanistan, Somalia, Iraq, Syria and Sudan, with a reported 55% of all asylum seekers originating from these five countries. In Germany, the largest group of asylum seekers is from the Russian Federation, especially the northern Caucasus region. In 2013, 14,900 asylum applications were from the Chechen Republic. The second largest group was from Syria, with 11,900 asylum applications. The most often stated reasons for flight were violations of human rights, assault and the civil war in Syria.

In 2013, Serbia still ranked third in the list of asylum seekers with 11,500 asylum applications. Of these, 93% were Roma, a group greatly affected by poverty, discrimination and persecution in Serbia. Other countries with a high number of refugees were Afghanistan (7,700), Iran (4,400), Pakistan (4,100), Iraq (4,000), Somalia (3,800) and Eritrea (3,600).

In 2013, 38.5% of all processed applications (80,978) for asylum in Germany were rejected, another 36.7% seeking asylum were deported to other countries without any review of their application on the grounds of the Dublin II or III regulation (The Dublin III regulation came into force in July 2013, see Exhibit 3).

Effectively, only 1.1% of all applicants were acknowledged as people entitled to asylum in accordance with the German Constitution, Art. 16a. A mere 12.4% were granted the status of protection as a refugee according to §3 (1) of the Asylum Procedure Act (AsylVfG). Additionally, 11.4% obtained subsidiary protection status (deportation ban) according to §60 2, 3, 5 and 7 AufenthG. In total, 24.9% (20,164) of 80,978 asylum seekers were recognised as refugees or were granted additional protection or freedom from deportation (Pro Asyl, 2013) (Exhibit 2).

### **Asylum procedure in Germany**

Asylum seekers may register an application for asylum in every government agency or public authority, for example at a police station. From there, they are taken to an initial reception centre where they are registered and receive a temporary residence permit. After a short period, they are relocated to a certain city or county where their accommodation might vary from a flat to a single bed in a dormitory. In Germany in 2013, 40,000 people lived in camps and reception centres. The Federal state of Bavaria, where Würzburg is located, has 118 such camps.

If the asylum seeker entered Germany via a “safe third state”, which includes all EU Member States, Norway and Switzerland, then the Dublin III Regulation applies and the applicant is deported to that safe third state (Exhibit 3).

An application for asylum takes place in the Federal Office to which the initial reception centre is affiliated. Part of the application process is to register personal data. A photograph and fingerprints are taken to ascertain whether an initial, subsequent or duplicate application is made. A Federal Office administrator conducts an interview with the asylum seeker who is asked to declare why he or she has been persecuted and to give evidence of persecution (Exhibit 4).

### **Accommodation in Würzburg**

In Bavaria, asylum seekers are generally placed in asylum seekers’ camps, though their placement can vary according to the state to which they are sent. The accommodation in Würzburg – a former military barracks – consists of different buildings; one for families, one for females and one for males. Families are assigned to one room for four or five people. Single persons share rooms with one to four other persons of the same sex.



Camp in Würzburg, former military barracks.  
Photo: Hannah Maike Albers

If family members or individuals have certain needs or are disabled, special arrangements can be made; for example two rooms for one family or only two persons sharing a room. Asylum seekers share bathroom facilities and the kitchen. Sanitary and hygiene conditions within the facilities can vary enormously.

On arrival at the camp, asylum seekers receive basic equipment and money to buy food, which they cook themselves. If they need additional items like buggies or wheelchairs, this has to be applied for at the social services department. Children are enrolled in school – one school in the city receives all children of asylum seekers. Generally, asylum seekers do not have the option of taking German language classes, but civil groups do offer lessons on a voluntary basis.

### **The 'Würzburg Model'**

In 2008, a group of doctors, nurses and medical students at the Medical Mission Hospital, decided to improve the situation of the asylum seekers in Würzburg. At that time, the legal situation was even more restrictive. Asylum seekers received almost no money but direct food aid, which they could select from a limited one-page list only. Distribution was twice a week and the food was often mouldy. Options for sanitary items were very limited and often children did not receive tooth brushes. This began to change in 2013, when the new Social Minister of Bavaria changed the regulations so that asylum seekers received a certain amount of money that they could use to buy food and other items.

What later came to be known as the 'Würzburg Model' began when a daily clinic was established in a room inside the accommodation facilities. It was staffed by nurses in the morning and supported by contracted medical students and doctors (GPs, internal medicine specialists and paediatricians) in the afternoon. Since the staff of the clinic was considered trustworthy and responsive to their needs, people often turned to them for help with non-medical problems.

This clinic was connected to the hospital's IT system and offered non-prescription drugs for the most common minor diseases. If further tests were needed, patients were referred to the hospital or other specialists. If examinations such as CT scans or specialists such as psychologists or physiotherapists were needed, the approval of the social services department was necessary.

In the absence of this clinic, asylum seekers with symptoms of a disease would have to go to the social services department (within opening hours), ask for a voucher and then find a private practice where the doctor would give them an appointment. This approach was often difficult for asylum seekers and represented a significant barrier in the access to health care.

In emergency cases and outside the clinic's opening hours, camp residents would have to ask the gatekeeper to call an ambulance. Although not medically trained, he would then decide whether the condition seemed to be serious enough to call an ambulance. If he decided that it wasn't, they would have to take a bus or taxi to the hospital at their own expense (Exhibit 5).

## **Sara Fischer**

"Excuse me, may I help?" As David was wondering what he should do, a young woman appeared and held out her hand. "I'm Sara Fischer, a nurse working here at the clinic in the camp," she introduced herself. Not knowing that there was a clinic there, David felt relieved to find someone who might be able to give him some background information. "Do you know this family?" he asked her.

Sara Fischer nodded, and explained that the woman had been diagnosed with post-traumatic stress disorder and depression. "She had a complete breakdown last week when she was informed about her husband's imminent deportation to Poland. Why don't I bring you her file so you can have a look at it yourself?" David gladly accepted her offer.

While waiting for the nurse to return, David looked around. The group of about twenty camp inhabitants had now gathered in the entrance hall to the building, and were watching the scene intently. Some were clearly agitated and upset about what was going on.

David turned back to the couple. "As I understand it, you were supposed to be deported to Poland today," he addressed the husband. "My job is to make sure that everybody is healthy and that there is no danger to the baby. So, I want to have a look at your wife's medical file and then I will discuss with the nurse and the police officers how best to proceed. Does your wife have any symptoms like abdominal pain, bleeding or signs of contractions at the moment?"

Though he was not entirely sure if he understood everything that the husband told him, David concluded that there was no immediate danger for the baby and gratefully took the medical file that Sara Fischer handed over to him. He quickly scanned the official notes made on the family's history and medical condition.

## **File on Ruslan and Sarema C.**

### ***Family history***

Family C: from Chechnya. Sarema, a 29-year-old woman and her 31-year-old husband. Husband speaks some German, wife only Russian. Religion Muslim. They have been married for two years and had owned a restaurant in Grozny. Drug dealers 'asked' them if they

could use the restaurant to deal drugs. According to Ruslan, he refused and notified the police. A few days later he was arrested, beaten up and threatened by three police officers apparently collaborating with the drug dealers. Feeling insecure and fearing persecution in Chechnya, they escaped via Belarus and Poland to Germany via bus, travelling with other refugees. As the bus broke down, they had to go some way on foot. Although the civil war is over, torture, ill treatment, abductions, enforced disappearances and extrajudicial killings reportedly still to occur in Chechnya. They have been accommodated in the Würzburg asylum seekers camp in a small family room. They have submitted a request for asylum in Germany on the grounds of fear of persecution.

### ***Medical Dossier***

**January, 22<sup>nd</sup>, 2013:** First presentation of Mrs C at the clinic. Patient does not speak any German, husband only a few words, so communication difficult. Currently she is suffering from joint pains in her right knee. No other medical complaints or chronic diseases.

Family is hopeful to start a new life in Germany. They have submitted request for asylum.

**April, 16<sup>th</sup>, 2013:** Mrs C comes to see doctor with another Chechen woman as translator. Main complaint: sleeping problems. Wakes up during the night, has nightmares. Feels uncomfortable sharing living space with so many strangers. Worried that there is still no answer to their asylum request. Worries about what will happen if they are not granted asylum in Germany. Asks for sleeping pills.

**April, 23<sup>st</sup>, 2013:** Mrs C and husband present a letter from the Federal Office for Migration and Refugees during nurse consultation hours. Family doesn't understand content. Nurse explains that it is an invitation to husband for first interview with Federal Office officials. Nurse reassures them that

interviews about personal data, escape routes and reasons for leaving were normal part of the process. They are referred to Caritas<sup>1</sup>.

**May 2<sup>th</sup>, 2013:**

Mrs C again complains of constant headaches and sleep disturbance. Cannot stop thinking about future. Needs more privacy, cannot stand situation in asylum camp, crowded living situation with constant noise coming from the neighbouring room while not being able to communicate with neighbours. She is worried about poor hygiene conditions, especially in shared bathrooms. Asks for more sleeping pills.

**May 7<sup>th</sup>, 2013**

Main complaint: nausea and fatigue. Thinks she has an infection due to poor hygienic conditions. Pregnancy test positive. Patient is shocked and worried that she cannot take care of a baby. Is afraid the family cannot stay in Germany. Says that she cannot raise a child in Chechnya due to difficult living conditions there. So far no answer from authorities.

**May 15<sup>th</sup>, 2013:** Letter from gynaecologist: ... pregnancy intact at six weeks. ... Calculated due date: January 6<sup>th</sup>, 2014.

**June 17<sup>th</sup>, 2013:** Patient arrives at clinic in tears, presenting a letter from Federal Office for Migration and Refugees: Her husband's request for asylum cannot be granted in Germany due to Dublin II-agreement. He will be transferred to Poland where they were registered in transit. Her process is still under investigation. She is convinced that her husband will be transferred back to Chechnya and that he might be killed there. She is desperate and does not know what to do.

---

<sup>1</sup> Largest welfare association in Germany, faith-based, offers legal and social advice for refugees

Lawyer contacted. He will try to find a way to stop deportation of husband and explore all possibilities within the legal framework.

**June 19<sup>th</sup>, 2013:** Letter from gynaecologist: ... Transvaginal ultrasound shows intrauterine pregnancy. ... No abnormalities.

**July 2<sup>nd</sup>, 2013:** Patient and husband arrive together with letter that they do not understand. Patient is afraid of bad news concerning asylum process. Nurse explains that it is only formal paperwork and the process is still under investigation. Still not sleeping. Asks for sleeping pills. No medication given due to pregnancy.

**July 15<sup>th</sup>, 2013:** Main complaints: sleeping disturbances. Wakes up very early every morning and cannot go back to sleep. Loss of appetite. No interests. Not capable of going outside. No social contacts. Cries a lot. Referred to psychiatrist due to severe signs of depression. Urgent appointment on July, 23<sup>rd</sup>. Patient is told to bring husband as translator.

**August 1<sup>st</sup>, 2013:** Letter from psychiatrist: ... "Diagnosis: Post-traumatic stress disorder, depression. ... Even though there is a clear need to prescribe antidepressant drugs, I recommend focusing on behaviour therapy at this point due to the patient's pregnancy. Since communication with the patient is not possible and translation by husband is insufficient and problematic in terms of privacy, behaviour therapy can only be effective with a professional translator."...

Official request for behaviour therapy and professional translator submitted to social services office.

**August 16<sup>th</sup>, 2013:** Patient presents again with same symptoms. Official letter is written to the social welfare office to support moving Mrs C out of the camp with her husband for medical reasons (PTSD, depression and pregnancy). So far, requests for behaviour therapy and translator have not been processed.

**August 28<sup>th</sup>, 2013:** Request to move out of camp rejected. Request for behaviour therapy accepted, request for translator rejected. So far no psychiatrist found able to carry out therapy in Russian.

**September 2<sup>st</sup>, 2013:** Patient seen after last appointment at the gynaecologist with her *Mutterpass*<sup>2</sup>: ...intact pregnancy... no abnormalities.

**September 5<sup>th</sup>, 2013:** Patient and husband bring a formal letter from authorities. They do not understand content. Letter is an invitation to patient's husband for second interview. Patient describes symptoms of anxiety, starts crying.

**October 18<sup>th</sup>, 2013:** Patient arrives with husband. He says she has had a complete breakdown. Husband had been informed that he will be deported to Poland within next few days. Wife is devastated. Signs of depression have become worse according to husband. She barely sleeps, does not go outside or speak to other people, cries a lot. She refuses to be admitted to psychiatric hospital since she does not speak German.

---

<sup>2</sup> booklet for ante-natal check-ups

## **Back on the stairs**

After reading the file, David looked up at the woman again. Now as the crowd had dispersed to give her some privacy, she had calmed down and was silently crying in her husband's arms. Clearly she was still not willing to let him go. "This is much more than just a panic attack," David decided. "But what on earth am I going to do?"

He turned to Sara Fischer and spoke in a low voice. "She needs to calm down. Foetal heart rate seems normal from what I can tell and there are no contractions, but I am really worried about the baby if they proceed with the deportation. A continued mental state like this could result in a very premature birth, and she is only at 28 weeks. As long as the threat of her husband's deportation remains, so will her anxiety attacks, so there is very little I can do medically."

Sara had an idea. "Why don't we call the lawyer in charge? We cooperate closely with him and maybe there is something he could do?" David nodded and rang the lawyer, Marc Schulz, on the number in the file. Luckily, he was put through to him immediately.

## **The lawyer**

Over the phone, Marc Schulz told David that during the previous months he had tried everything to stop the husband's deportation. "Since the family was first registered in Poland," he explained, "they will be sent back there as the country of first registration is responsible for processing the asylum request as part of Dublin III regulations."

The lawyer explained the problems in more depth. "The extradition treaty between Poland and Chechnya means that Poland transfers refugees directly back to Chechnya without checking their request for asylum. Unfortunately, in some cases, the application for asylum by families is not processed simultaneously, which was why the husband will be deported now, while his wife can remain in Germany for the time being. In the end, she will also most likely be deported to Poland once the responsible authorities discover that her finger prints have been registered in Poland as well. Her pregnancy is no obstacle to deportation, since her transfer can take place by land. Only a medical attestation that she is a high-risk pregnancy could stop her deportation to Poland and then probably on to Chechnya."

The lawyer then provided additional legal details about the process that David, having never dealt with asylum seekers and their problems before, could barely follow. "Unfortunately, at this point there is nothing I can do legally to stop the deportation," ended the lawyer.

David thanked the lawyer and put his mobile back in his pocket. Just as he turned to talk to Sarah, he was interrupted by the impatient police officer. "We're spending hours here. Let's not waste any more time. What are you going to do?"

Trying not to let himself be put under pressure by the police officer, but rather concentrate on what to do next, David looked at the woman again. He thought through the various options that came to mind. "Could I go far beyond my professional boundaries here and attest a high-risk pregnancy? A gynaecologist would need to become involved, but if the woman rejects going to the hospital out of fear that her husband will meanwhile be deported, what other choice is there? Is there any other way I can help? Am I supposed to deal with these legal issues? If so, how will I be able to? How can it be that these people are put into such a difficult situation in the first place? If she could stay here and her application was dealt within Germany, is there a chance that her husband could then appeal and stay in Germany, too? Is it my place to think about these issues, or should I just simply get on with my job? I cannot stay here for hours while I am on emergency call..."

# Exhibit 1

## Legal frameworks for asylum seekers and refugees

There are various legal obligations and frameworks for asylum seekers and refugees and their access to healthcare. The legal frameworks aim to guarantee protection for asylum seekers and refugees and are found in “international human rights law as well as the legal regime applicable to armed conflicts under international humanitarian law” (Geneva Academy, n.d.).

### Asylum seekers and refugees

According to the United Nations High Commissioner for Refugees (UNHCR) “an asylum-seeker (is) [...] someone who says he or she is a refugee, but whose claim has not yet been definitively evaluated” (UNHCR, n.d.).

A refugee according to Art. 1 A (2) of the 1951 United Nations Convention Relating to the Status of Refugees with the 1967 optional Protocol Relating to the Status of Refugees, is any person who, “[a]s a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (UNHCR, 1951, chap.1).

### Refugee Law

In the 1948 Universal Declaration on Human Rights, Art. 14, it is stated that everyone can seek asylum (Art. 14 (1)): “Everyone has the right to seek and to enjoy in other countries asylum from persecution” (UN, 1948, para.14). Nonetheless, there was a need for a global legal framework, which deals with the status, rights and obligations of refugees. In 1951, the Convention Relating to the Status of Refugees (CRSR) was adopted and subsequently amended by the 1967 Protocol (UNHCR, 2011b, p.1). As of 2011, about 145 countries have been States parties to the Convention and/or the protocol. Germany ratified it in 1953 and Italy and the UK in 1954 (UNHCR, 2011a). The convention consists of fundamental principles: non-discrimination (Art. 3), non-penalisation (Art. 31), non-refoulement (Art. 33), and basic minimum standards, such as housing, education and public relief (UNHCR, 1951, p.3).

“The 1951 Convention does not define how States parties are to determine whether an individual meets the definition of a refugee. Instead, the establishment of asylum proceedings and refugee status determinations are left to each State Party to develop. This has resulted in disparities among different States as governments craft asylum laws based on their different resources, national security concerns, and histories with forced migration movements” (International Justice Resource Center, n.d.).<sup>3</sup>

### **Regional refugee law**

Apart from the 1951 Convention, there are several regional legal frameworks dealing with refugees.

### **German national law**

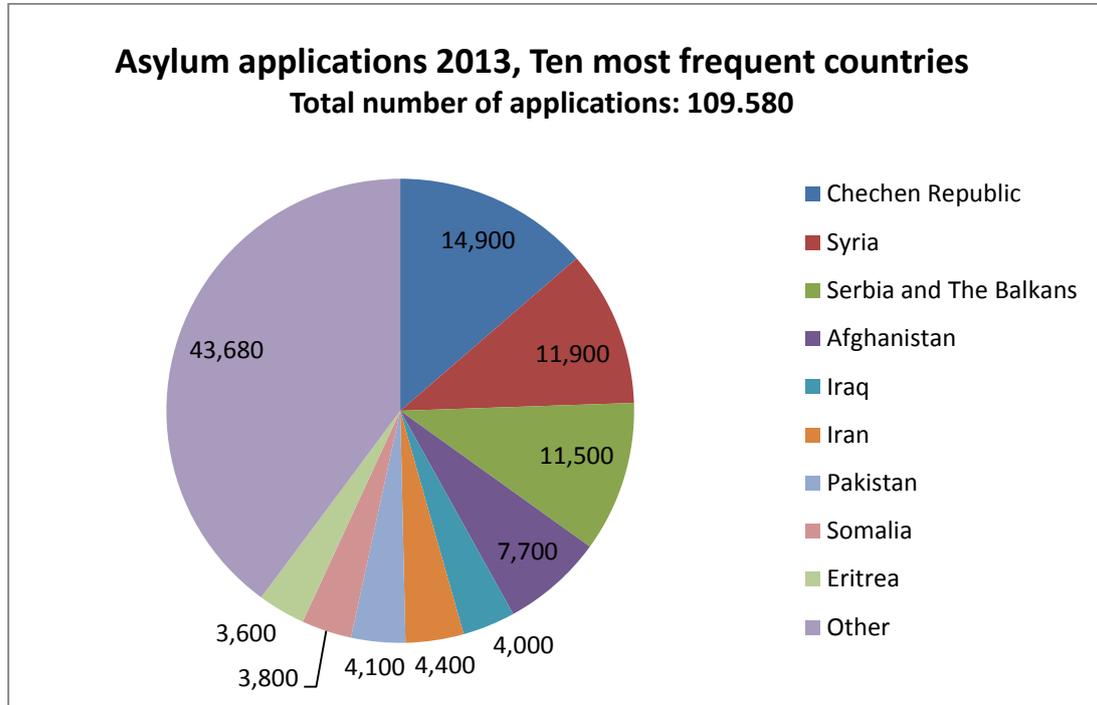
The right of asylum is enshrined in the German constitution Article 16a (Deutscher Bundestag, 1949). For further information see Exhibit 4: Asylum procedure in Germany.

---

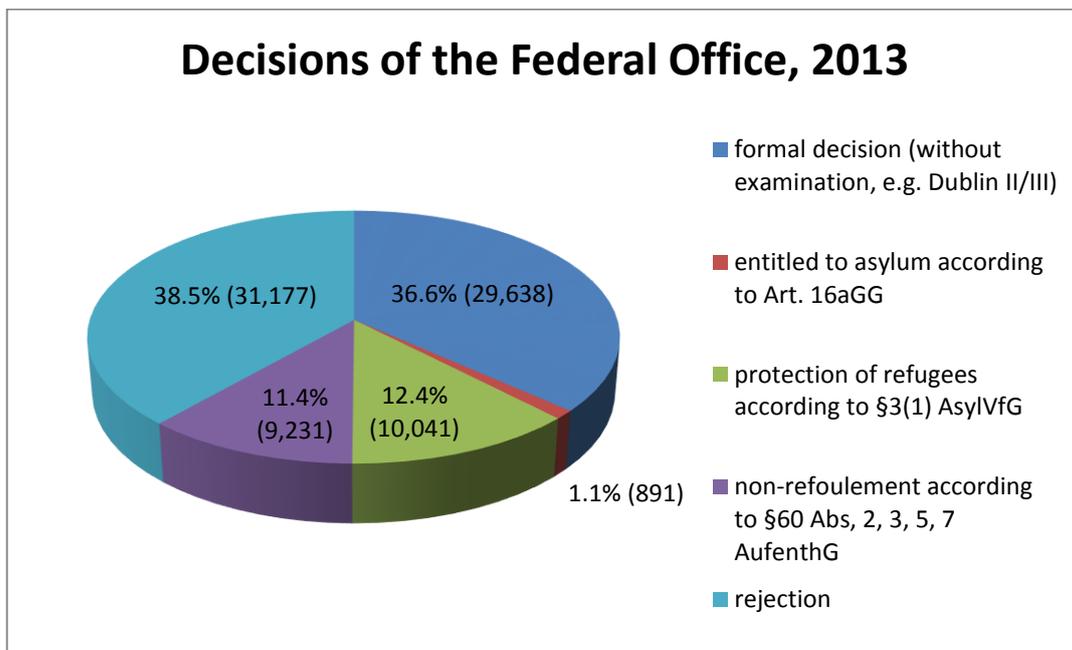
<sup>3</sup>Even though the 1974 International Convention for the Safety of Life at Sea (SOLAS) is not refugee law but rather the international law of the Sea, it is also of importance when considering refugees who have arrived at their host country via the ocean.

## Exhibit 2

### Numbers of asylum applications and decisions in Germany, 2013



Number of asylum applications in Germany, 2013. Data: Federal Ministry of the Interior Germany; chart: Medical Mission Institute.



Decisions on asylum applications in Germany, 2013. Data: Federal Ministry of the Interior Germany; chart: Medical Mission Institute.

**Right to asylum:** Is enshrined in the Geneva Convention on Refugees and a fundamental right in Germany. It is afforded to political persecutees in accordance with Article 16a of the Basic Law (GG) of the Federal Republic of Germany. General emergency situations such as poverty, civil wars, natural disasters or a lack of prospects are therefore ruled out as reasons for granting asylum. The guarantee of subsidiary protection can be considered in certain circumstances (BAMF, 2011a).

**Status of protection as a refugee:** In accordance with section 3 subs. 1 of the Asylum Procedure Act (*AsylVfG*), a person is recognised as a refugee if, out of justified fear of persecution because of his/her race, religion, nationality, political conviction, or membership of a specific social group, he/she is outside the country of origin, and is unable to call on the protection of that country or does not wish to take it up because of this fear (BAMF, 2011b).

**Subsidiary protection status/non-refoulement:** Third country nationals and stateless persons may be entitled to subsidiary protection if they cannot be protected either through recognition of refugee status or through the right to asylum. Serious injury is considered to be:

- the imposition or enforcement of the death penalty,
- torture or inhuman or degrading treatment or punishment, or
- a substantial concrete danger to the life and limb of a civilian within an international or domestic armed conflict.

(BAMF, 2014); (BAMF, 2010)

# Exhibit 3

## The Dublin Regulation

The 'Dublin Regulation' was adopted by the EU and the Schengen states Norway, Switzerland, Iceland and Liechtenstein as part of the process to harmonise European asylum policies and to establish a 'Common European Asylum System' (CEAS) (European Union: Council of the European Union, 2013b). Its main objective was to provide criteria to decide which member state should be responsible for processing a request for asylum. This was originally intended to ensure that refugees have access to an asylum procedure in any of the member states. Additionally, it should prevent refugees from claiming asylum in more than one member state and accelerate asylum procedures.

For adults, the hierarchy of criteria to identify their responsible state is as follows (European Union: Council of the European Union, 2013c):

- a) Family reunification aspects
- b) Valid temporary residence permit in any Member State
- c) State of first entry into the EU

If a person has been living in the EU for more than twelve months, the state of first entry is no longer responsible. In that case, the responsible state is the one where the applicant has been living most recently for at least five months or the state of current residence. Different criteria apply to unaccompanied minors, allowing more flexibility to decide for their best interest.

The Dublin Regulation and two associated regulations together form the 'Dublin System'. The 'Implementation Regulation' (European Union: Council of the European Union, 2014) contains details on how to apply the Dublin Regulation and the 'Eurodac Regulation' (European Union: Council of the European Union, 2013a) describes the establishment of an EU-wide fingerprint database used to determine the State of first entry (i.e. first registration) of a refugee.

The current third version of the Dublin Regulation (Dublin III) entered into force in July 2013. It was developed as a reaction to criticisms regarding the impact of the Dublin System on refugees' rights.

For example: When identifying responsible member states, the criterion of state of first entry is the one most frequently applied, sometimes even leading to family separations. This results in further increases of asylum claims in Southern and Eastern European states which already

receive the largest numbers of refugees. For instance, Germany transferred 4,741 asylum seekers to other countries in 2013, of which 2,234 were transferred to Poland (German Federal Office for Migration and Refugees, 2013). Only 1,904 persons were transferred to Germany from all EU countries. (German Federal Office for Migration and Refugees, 2013). In the same year, Poland received in total 3,351 Dublin transfers and transferred 82 persons to other countries (Helsinki Foundation of Human Rights, 2014).

### **The German approach to deportations**

Officially, Germany does not deport refugees to countries that are known for severe human rights violations. However, all refugees who have been first registered in Poland are deported there by the German authorities. Poland then deports them to Chechnya without considering their application for asylum due to an extradition treaty with Chechnya.

However, legal regulations like the Dublin III agreement allow the deportation to above-named countries via other apparently 'secure' countries (European Council on Refugees and Exiles, n.d.).

In the case of **unaccompanied minors**, Dublin decisions are unsystematic and unpredictable. Furthermore, the treatment of asylum seekers awaiting a Dublin decision is inadequate. Contrary to obligations within the Dublin Regulation, information provided to refugees or their designated guardians about their Dublin procedure is frequently insufficient or incomprehensible and the notification about an upcoming transfer may be delayed until the day it takes place. Asylum seekers are commonly detained during Dublin procedures and detainees are granted fewer rights compared to non-detained persons. Detention, lack of information and difficulties in accessing legal support present major barriers for asylum seekers to exert their right to appeal against Dublin transfer decisions.

After being transferred, it is often more difficult for refugees to access an asylum procedure, for example due to restrictions when lodging secondary claims. There are substantial variations across member states regarding reception conditions and living situations of asylum seekers and accommodation facilities are surcharged in several countries such as Greece, Italy, France and Switzerland. Importantly, the chances of being granted asylum or accessing an asylum procedure for an individual may also differ between countries (e.g. due to different regulations regarding the 'safe third country' concept).

These practices resulted in a multitude of court challenges at the national and the European level. In particular, two judgements of the *European Court of Human Rights* (Grand Chamber, 2011) and the *Court of Justice of the European Union* (Court of Justice of the European Union, 2011) in 2011 demonstrated substantial flaws of the Dublin system. They revealed the underlying assumption – that refugees’ rights are respected equally in each member state – to be false. Therefore, before transferring a person under the Dublin Regulation states need to consider whether the receiving state respects the asylum seekers’ fundamental rights. This obligation has now been included in the recast Dublin III Regulation.

Consequently, several states currently suspend transfers to Greece and some to Bulgaria or Malta, but these decisions remain within the responsibilities of individual countries and practices are variable across Europe (‘Asylum Information Database. Comparator.’, n.d.). Further amendments of the Dublin Regulation concern the rights of minors, the right to information, a personal interview and improved access to appealing procedures.

	<b>Dublin Convention (97/C 254/01) (European Community, 1997)</b>	<b>Dublin II- Regulation No 343/2003 (European Parliament and the Council, 2003)</b>	<b>Dublin III-Regulation No 604/2013(European Parliament and the Council, 2013)</b>
Entry into force	1 <sup>st</sup> September 1997	18 <sup>th</sup> February 2003	19 <sup>th</sup> July 2013
Signatories	Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom;	All EU-member states, including Norway, Iceland, Switzerland and Liechtenstein	All EU-member states except Denmark, including Norway, Iceland, Switzerland and Liechtenstein

#### **Additional Link**

For clearly structured comparisons of asylum regulations and practices across European Member States: Asylum Information Database (<http://www.asylumineurope.org/>)

# Exhibit 4

## Asylum procedure in Germany

After being sent to a reception centre and during the pending process, the asylum seeker has to stay in the area of the initial reception facility, more precisely within a radius of 20km around the facility. This restriction, in German known as *Residenzpflicht*, provoked a series of demonstrations and refugee protests and was finally withdrawn in most of the Federal States. The Federal Office informs the applicant of the progress of the asylum process and about their rights and responsibilities during the process (BAMF, 2011c; BAMF, 2011d; ProAsyl, n.d.).

This process may take several months or even one to two years. While 44% of people have a decision within six months, 12% have to wait a year, 6% up to 18 months and the rest has to wait several years (BAMF, 2011c).

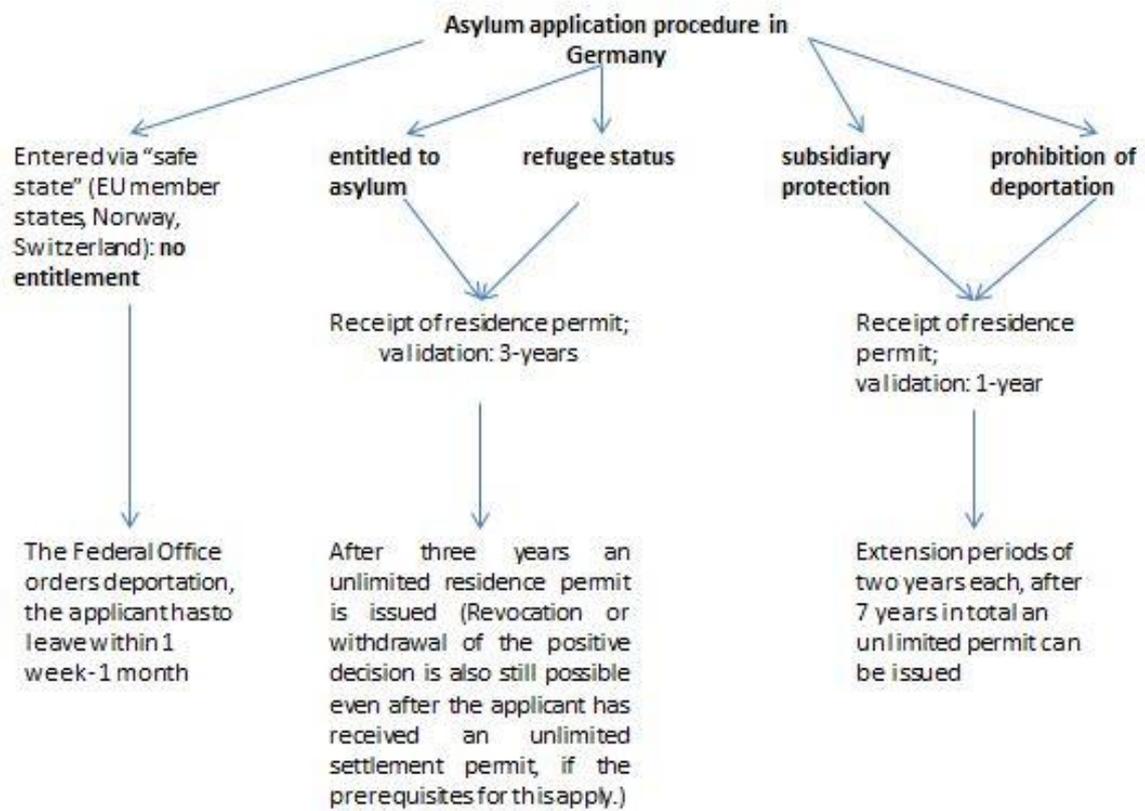
Asylum applicants who enter via a safe third state are not recognised as being entitled to an asylum procedure in Germany. The Federal Office orders their deportation: They are returned to the state via which they entered the country. This return may also take place if an appeal is lodged. Safe third states are considered to be the EU Member States, as well as Norway and Switzerland. The Dublin III Regulation applies to these states, and contains provisions concerning which state is responsible for implementing asylum proceedings. The third-state arrangement does not apply if a state is responsible in accordance with the regulation (See Exhibit 3) (BAMF, 2011f).

An applicant whose **entitlement to asylum** has been recognised receives a **residence permit** from the immigration authority which is time-limited to three years. The same applies if it is ascertained that he/she qualifies as a refugee. An **unlimited settlement** permit is issued after three years if the Federal Office informed the immigration authority that there are no reasons for revocation or withdrawal of the entitlement to asylum or recognition as a refugee. Revocation or withdrawal of the positive decision is also still possible even after the applicant has received an unlimited settlement permit, if the prerequisites for this apply. The decision on this is taken at the discretion of the Federal Office if there are no serious reasons that are relevant under criminal law.

Anyone who has been recognised by the Federal Office as **entitled to subsidiary protection** receives a residence permit from the immigration authority which is valid for one year and which can be extended for periods of two years at a time. An unlimited settlement permit can be issued after seven years if further preconditions (such as a secure livelihood and adequate knowledge of German) are met. As a rule, the Federal Office for Migration and Refugees does not need to first assess whether subsidiary protection is to be revoked or withdrawn, but this is possible where certain indications are evident.

If a **prohibition of deportation** has been handed down, deportation to the country to which this ban applies may not take place. The person is to receive a residence permit from the immigration authority unless it is possible and reasonable to expect him/her to leave for another state, he/she has failed to properly fulfil the duties of cooperation which are incumbent on him/her, or there are grounds for exclusion (he/she has committed crimes against peace, crimes of war or acts in breach of the goals and principles of the United Nations). The residence permit is issued for at least one year, and can be repeatedly extended. The same rules apply to issuing the settlement permit as to individuals entitled to subsidiary protection (see above).

In the event that the asylum-seeker is not recognised as entitled to **asylum** or as a **refugee**, is not granted **subsidiary protection** nor has a **prohibition of deportation** issued for him/her, nor that any **residence permit** has been issued to him/her for any other reason (such as because of marriage), the Federal Office issues a request to leave the country and a deportation notice, together with the decision on the asylum application. If the asylum application is rejected as being (simply) ill-founded or unsubstantiated, the asylum-seeker is given 30 days to leave the country. By contrast, if an asylum application is rejected as being immaterial or as "manifestly ill-founded", a deadline period of only one week is set to leave the country. If the foreigner is to be deported to a safe third country or to a state that is competent in terms of implementing the asylum procedure, the Federal Office orders deportation to that state as soon as it has been ascertained that it can be carried out. It is no longer within the remit of the Federal Office of Migration and Refugees to enforce the deportation notice and deportation order, but this becomes a matter for the federal states. The latter usually operate via the immigration authorities (BAMF, 2011e).



# Exhibit 5

## Health care and health status of asylum seekers

### Health services

While technically, asylum seekers are granted the right to seek health care, in reality they face many obstacles. Mass accommodations are often not connected to the public transport system and people do not know about the range of preventive and curative services (like immunisation and regular check-ups for children). In Paragraph 4 of the “Act on Benefits for Asylum Seekers”, they are granted the right to access to health care in cases of acute and painful illness, with all health needs related to pregnancy and childbirth, as well as for immunizations and preventive health check-ups for children. Problems arise because people often remain asylum seekers for many years, and services covered by this law do not suffice to adequately care for people with chronic diseases. Gaps exist in dental care, which is generally restricted to tooth extraction, even with children, and also in terms of psychological care.

Recently (2015), regulations have changed so that after 15 months of stay in Germany, asylum seekers are entitled to health care services covered by public insurance schemes. There are, however, still hurdles in administration to receive an insurance card in a timely manner.

### Health status

There are **two common theses** about the health status of refugees: **(A)** they suffer more often from infectious diseases, from psychological trauma due to torture, persecution and the circumstances of the flight and **(B)** they have a better health status because only the healthiest can successfully arrive (healthy migrant effect, see (WHO, 2010, p.30)). The **healthy migrant effect** suggests that those who have been able to flee from their home country are relatively speaking “fitter” than an average member the general population, both in the home country as well as the recipient country. The premise is that these persons need a certain mental and physical fitness and also financial resources to flee in the first place and thereafter suffering the hardship from the often month-long journeys, and that migrants are often equipped with a strong willingness to work and improve their situation.

Unfortunately, scientific evidence about the health status of asylum seekers, especially in Germany, is very scarce. According to a yet to be published systematic review by the University of Heidelberg, only 50 studies were conducted between 1992-2012 that touched upon the issue

of the health status of asylum seekers in Germany. None of them dealt with chronic diseases, only few with health inequalities and none with health inequities (Schneider et al. 2014).

One good data source on the health status and (somatic) health problems of asylum seekers in Germany comes from Bremen, a city state, where the public health authorities itself have offered accessible and acceptable health care since 1992 and have collected extensive data (Jung and Gesundheitsamt Bremen, 2011). Numbers from Bremen actually show that infectious diseases were very low with 3%, mostly fungal or parasitic skin diseases due to unhygienic living conditions and crowded housing. Numbers for psychiatric conditions differ greatly between very small numbers in Bremen to 40% of all refugees from other data sources. Diagnosis surely relies on the kind of qualification of the medical personnel and the options of further referral to psychiatric services. From the more somatic statistics of Bremen it can be said that headache was the one single symptom most often diagnosed (17%). 50% of the people suffered from one or several types of different symptoms that can be summarised under a large group of **unspecific symptoms** (headache, back pain, muscle pain, etc.) which needed further diagnosis. However, in these cases somatic reasons could often not be established.

The second major group of diseases was **acute respiratory infections** including influenza, which refugees did not bring from their home countries but the higher prevalence can be due to crowded living conditions. Due to the findings, the authors of the study created a **third hypothesis (C)**. Their impression was that refugees have a relatively good health status at the time of their arrival, with less infectious diseases and psychiatric problems as may be anticipated. However, the longer their stay in collective living quarters and in an uncertain legal situation with no real perspective, the more their health status deteriorates, with an increase in unspecific and often pain-related symptoms that can be partly understood as psychosomatic responses to the living conditions.

This hypothesis is backed by a study conducted in the camp for asylum seekers in Würzburg (Albers, 2012). It could be shown that worse mental health status is associated with longer residence in the asylum camp. Camp residents reported suffering considerably from psychosocial burdens such as the uncertainty about their future, the living conditions in the camp and the lack of working permits.

## References

- Albers, H. M. (2012) *Lebensbedingungen und psychische Gesundheit der Bewohner der Würzburger Gemeinschaftsunterkunft für Asylbewerber, Living conditions and mental health of residents of the shared accommodation centre for asylum seekers in Würzburg, Germany*. [online]. Available from: <http://opus.bibliothek.uni-wuerzburg.de/frontdoor/index/index/docId/7013> (Accessed 6 March 2015).
- Anon (n.d.) *Asylum Information Database. Comparator*. [online]. Available from: [www.asylumineurope.org](http://www.asylumineurope.org) (Accessed 13 February 2015).
- BAMF (2011a) *BAMF - Bundesamt für Migration und Flüchtlinge - Asylum law* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Asylrecht/asylrecht-node.html> (Accessed 6 July 2015).
- BAMF (2014) *BAMF - Bundesamt für Migration und Flüchtlinge - Prohibition of deportation* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Abschiebungsverbote/abschiebungsverbote-node.html> (Accessed 6 July 2015).
- BAMF (2011b) *BAMF - Bundesamt für Migration und Flüchtlinge - Protecting refugees* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Fluechtlingsschutz/fluechtlingsschutz-node.html> (Accessed 6 July 2015).
- BAMF (2010) *BAMF - Bundesamt für Migration und Flüchtlinge - Subsidiary protection* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Subsidaer/subsidaer-node.html> (Accessed 6 July 2015).
- BAMF (2011c) *Bundesamt für Migration und Flüchtlinge - How to make an application* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Asylverfahren/Antragstellung/antragstellung-node.html> (Accessed 24 February 2015).
- BAMF (2011d) *Bundesamt für Migration und Flüchtlinge - Interview and decision* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Asylverfahren/AnhoerungEntscheidung/anhoerungentscheidung-node.html> (Accessed 24 February 2015).
- BAMF (2011e) *Bundesamt für Migration und Flüchtlinge - Legal consequences of the decision* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Asylverfahren/Rechtsfolgen/rechtsfolgen-node.html> (Accessed 24 February 2015).
- BAMF (2011f) *Bundesamt für Migration und Flüchtlinge - Special procedures* [online]. Available from: <http://www.bamf.de/EN/Migration/AsylFluechtlinge/Asylverfahren/BesondereVerfahren/besondereverfahren-node.html> (Accessed 24 February 2015).

- Court of Justice of the European Union (2011) *N. S. v. Secretary of State for the Home Department*. [online]. Available from: <http://curia.europa.eu/juris/celex.jsf?celex=62010CJ0411&lang1=en&type=NOT&ance=> (Accessed 13 February 2015).
- Deutscher Bundestag (1949) *I. Die Grundrechte* [online]. Available from: [http://www.bundestag.de/bundestag/aufgaben/rechtsgrundlagen/grundgesetz/gg\\_01/245122](http://www.bundestag.de/bundestag/aufgaben/rechtsgrundlagen/grundgesetz/gg_01/245122) (Accessed 2 February 2015).
- European Community (1997) *Convention No 97/C 254/01* [online]. Available from: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:41997A0819\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:41997A0819(01)&from=EN) (Accessed 16 July 2015).
- European Council on Refugees and Exiles (n.d.) *Dublin Regulation* [online]. Available from: <http://www.ecre.org/topics/areas-of-work/protection-in-europe/10-dublin-regulation.html> (Accessed 6 March 2015).
- European Parliament and the Council (2003) *Dublin II Regulation* [online]. Available from: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:I33153&from=DE> (Accessed 16 July 2015).
- European Parliament and the Council (2013) REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast). *Official Journal of the European Union*. L 18031–59.
- European Union: Council of the European Union (2014) *Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014*. [online]. Available from: <http://www.refworld.org/docid/53c8f3ca4.html> (Accessed 13 February 2015).
- European Union: Council of the European Union (2013a) *Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 (recast)*. [online]. Available from: <http://www.refworld.org/docid/51d296724.html> (Accessed 13 February 2015).
- European Union: Council of the European Union (2013b) *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 (recast)*. [online]. Available from: <http://www.refworld.org/docid/51d298f04.html> (Accessed 13 February 2015).
- European Union: Council of the European Union (2013c) *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 (recast)* [online]. Available from: <http://www.refworld.org/docid/51d298f04.html> (Accessed 6 March 2015).
- Geneva Academy of International Humanitarian Law and Human Rights (n.d.) *International refugee law* [online]. Available from: [http://www.geneva-academy.ch/RULAC/international\\_refugee\\_law.php](http://www.geneva-academy.ch/RULAC/international_refugee_law.php) (Accessed 9 February 2015).
- German Federal Office for Migration and Refugees (2013) *Migrationsbericht 2013 [Report on Migration 2013]* (p. 113). [online]. Available from: [http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Migrationsberichte/migrationsbericht-2013.pdf?\\_\\_blob=publicationFile](http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Migrationsberichte/migrationsbericht-2013.pdf?__blob=publicationFile) (Accessed 13 February 2015).

- Grand Chamber (2011) *M.S.S. v. Belgium and Greece*. [online]. Available from: <http://www.refworld.org/docid/4d39bc7f2.html> (Accessed 13 February 2015). [online].
- Helsinki Foundation of Human Rights (2014) *National Country Report Poland*. [online]. Available from: <http://www.asylumineurope.org/reports/country/poland> (Accessed 17 February 2015). [online].
- International Justice Resource Center (n.d.) *Asylum & the Rights of Refugees*. International Justice Resource Center [online]. Available from: <http://www.ijrcenter.org/refugee-law/> (Accessed 10 February 2015). [online].
- Jung, F. & Gesundheitsamt Bremen (2011) *Das Bremer Modell-Gesundheitsversorgung Asylsuchender* [online]. Available from: [http://www.gesundheitsamt.bremen.de/sixcms/media.php/13/3\\_GBE\\_Gesundheitsversorgung\\_Asylsuchender.pdf](http://www.gesundheitsamt.bremen.de/sixcms/media.php/13/3_GBE_Gesundheitsversorgung_Asylsuchender.pdf) (Accessed 16 July 2015).
- Pro Asyl (2013) *Archiv: Zahlen und Fakten 2013* [online]. Available from: <http://www.proasyl.de/de/themen/zahlen-und-fakten/archiv-zahlen-und-fakten-2013/> (Accessed 6 July 2015).
- ProAsyl (n.d.) *Was passiert nach der Ankunft?* [online]. Available from: <http://www.proasyl.de/de/themen/basics/basiswissen/asyl-in-deutschland/was-passiert-nach-der-ankunft/> (Accessed 24 February 2015).
- Schneider, C. et al. (2014) *Health status of and health-care provision to asylum seekers in Germany: protocol for a systematic review and evidence mapping of empirical studies*. *Syst Rev* 3: 139.
- UN (1948) *The Universal Declaration of Human Rights* [online]. Available from: <http://www.un.org/en/documents/udhr/> (Accessed 2 February 2015).
- UNHCR (n.d.) *Asylum-Seekers* [online]. Available from: <http://www.unhcr.org/pages/49c3646c137.html> (Accessed 10 February 2015).
- UNHCR (2011a) *States Parties to the 1951 Convention and its 1967 Protocol* [online]. Available from: <http://www.unhcr.org/3b73b0d63.html> (Accessed 9 February 2015).
- UNHCR (2011b) *THE 1951 CONVENTION relating to the Status of refugees AND ITS 1967 PROTOCOL*.
- UNHCR (1951) *UNHCR - The 1951 Refugee Convention* [online]. Available from: <http://www.unhcr.org/pages/49da0e466.html> (Accessed 2 February 2015).
- WHO (2010) *Health of migrants - The way forward. Report of a global consultation* [online]. Available from: [http://apps.who.int/iris/bitstream/10665/44336/1/9789241599504\\_eng.pdf?ua=1](http://apps.who.int/iris/bitstream/10665/44336/1/9789241599504_eng.pdf?ua=1) (Accessed 16 July 2015).