

## DISENFRANCHISEMENT IN THE COURSE OF POLITICAL REORGANISATION. ACCOMMODATION AND SOCIAL ASSISTANCE FOR ASYLUM SEEKERS IN WEST BERLIN AND HAMBURG, 1973-1982

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With 1 figure and 1 table

Received 4 October 2018 · Accepted 22 March 2019

**Summary:** The article examines from a comparative perspective how policy regarding the accommodation and social assistance for asylum seekers in Hamburg and West Berlin shifted in the period between the beginnings of decentralisation in mid-1973 and the 1982 Asylum Procedures Act, as well as how the government of the Federal Republic of Germany and its federal state governments influenced this shift. Because the dispersal of asylum seekers between 1974 and 1982 was based only on non-binding decisions of the Conference of Interior Ministers, German federal states could refuse to actually receive their quota. Most asylum seekers were accused of lying about prior political persecution in their homelands. Moreover, municipalities were forced to bear the financial burden of providing social assistance for unemployed asylum seekers. For these reasons, many German federal state governments set themselves the goal of receiving as few asylum seekers as possible by lowering the standard of accommodation and social assistance available for asylum seekers. Drawing on the written records of senates and districts in the Berlin and Hamburg State Archives, the documents of the state parliaments, and press reports, the article examines the historical context behind the local introduction of measures to deter asylum seekers, which are nowadays better known as being part of national policy.

**Zusammenfassung:** Der Artikel untersucht aus einer vergleichenden Perspektive, wie sich die Politik zur Unterbringung und Versorgung von Asylsuchenden in Hamburg und West-Berlin zwischen den Anfängen der Dezentralisierung Mitte 1973 und dem Asylverfahrensgesetz von 1982 veränderte und auf welche Weise die Bundesregierung sowie andere Landesregierungen diese Veränderungen beeinflussten. Da die Verteilung von Asylsuchenden zwischen 1974 und 1982 lediglich auf rechtlich nicht bindenden Beschlüssen der Innenministerkonferenz fußte, konnten sich Bundesländer weigern, ihre vorgesehene Quote tatsächlich aufzunehmen. Den meisten Asylsuchenden wurde unterstellt, eine politische Verfolgung in ihrer Heimat nur vorzutäuschen. Zudem musste die Sozialhilfe für erwerbslose Asylsuchende von den Gemeinden finanziert werden. Aus diesen Gründen setzten sich viele Landesregierungen zum Ziel, möglichst wenige Asylsuchende aufzunehmen, was vor allem durch eine Absenkung des Standards bei Unterbringung und sozialhilferechtlicher Versorgung versucht wurde. Anhand von Quellen aus dem Landesarchiv Berlin, dem Hamburger Staatsarchiv, den Landesparlamenten sowie Zeitungsberichten beleuchtet der Artikel die historischen Zusammenhänge hinter der lokalen Einführung von Maßnahmen zur Abschreckung von Asylsuchenden, die heute eher als Teil nationalstaatlicher Politik bekannt sind.

**Keywords:** migration, urban history, Hamburg, Berlin, historical geography

### 1 Introduction

It is undisputed that local negotiation processes are highly relevant in the context of the arrival of asylum seekers (HINGER et al. 2016). When it comes to the purely statistical question of how many asylum seekers live where, however, these local negotiation processes have lost some of their importance in the Federal Republic of Germany, because the distribution of asylum seekers is nowadays regulated by law (BOSWELL 2003).

Conversely, between 1974 and 1982, the distribution of asylum seekers in Germany was based upon the non-legally binding decisions of the Conference

of Interior Ministers (IMK), which is why individual federal states (*Länder*) could refuse to actually receive their intended quota.

Against this background, local asylum policy played a particularly important role in the phase between the first long-term closure of the federal camp at Zirndorf in mid-1973, which preceded the decentralisation of the reception of asylum seekers in February 1974 and the adoption of the Asylum Procedure Act in mid-1982, which, among other things, enshrined the dispersal of asylum seekers into law. Most asylum seekers were suspected of making false statements about political persecution in their homelands in order to be able to stay

in Germany. In addition, social assistance for unemployed asylum seekers had to be financed by the municipalities. For these reasons, until the adoption of the Asylum Procedure Act, many state governments set themselves the goal of receiving as few asylum seekers as possible, which was primarily attempted by lowering the standard of welfare. In this domain, the German federal states had a lot of leeway over the implementation of the Federal Social Assistance Act (*Bundessozialhilfegesetz*).

This goal was pursued to different extents by different federal states between mid-1973 and 1982. This article addresses the question of how the policy regarding accommodation and social assistance for asylum seekers in Hamburg and West Berlin changed during this period and how the German federal government, as well as other federal state governments, influenced these changes. The aim is to clarify from a comparative perspective why policy in this area in West Berlin and Hamburg was at times very different and at times very similar. Thus, the article sheds light on the historical context behind the local introduction of measures to deter asylum seekers, which today are better known as being part of national policy. The research is based on source material consisting of the files of senates and districts in the Berlin and Hamburg State Archives (*Landesarchiv Berlin* and *Staatsarchiv Hamburg*), the documents of the state parliaments, and press reports.

Until now, historians have hardly investigated the regional and local asylum policies in the Federal Republic of Germany; this can partly be explained by the retention period for the required archival documents (ALEXOPOULOU 2016, 467). Meanwhile, two local case studies highlight civil society movements for the right to stay for certain categories of asylum seekers (KLEINSCHMIDT 2018; TEMPLIN 2017). Most of the works with a historical perspective on West German asylum policy are from the field of political science (BRÖKER and RAUTENBERG 1986; HÖFLING-SEMNER 1995; KLAUSMEIER 1984; MÜNCH 1993; WOLKEN 1988).

PATRICE G. POUTRUS is so far the only historian who has extensively researched the post-1945 history of German asylum law and asylum policy. His studies cover both the Federal Republic of Germany and the German Democratic Republic, but are limited to the period up to the mid-1970s (POUTRUS 2009, 2014, 2016).

The relevance of the local for the migration history of the Federal Republic of Germany was last emphasised by MARIA ALEXOPOULOU (2016, 478–484). German immigration law left broad discretionary power to local authorities with regard to policies

in many areas of importance. ALEXOPOULOU (2016, 481) therefore proposed to investigate ‘the extent to which local policies related to migration overlapped and crisscrossed with the other levels of government or institutions,’ and to also take into account the possibilities for co-determination or resistance of migrants.

Within the context of the ‘scale’ debate originating from critical geography, the spatial-scale dimension of social conflict comes into the foreground as a central theme, which deals with the question of ‘which interests are institutionalised on which scale’ because this ‘influence[s] the relative power position of social actors’ (WISSEN 2007, 236–237). These considerations are taken up in this article inasmuch as the consequences of a redistribution of migration policy responsibilities to additional actors are examined.

These actors were on different levels; the Hamburg and West Berlin Senates are the focus of the study. Because the policies of the Senates were sometimes characterised by conflicts between the different departments (*Senatsverwaltungen* in West Berlin and *Behörden* in Hamburg) about how to react to certain behaviours of migrants, a reference to the migration regime concept of the historian JOCHEN OLTMER is worthwhile. OLTMER’s regime concept is supposed to disentangle relations, hierarchies, and interplay between different actors (OLTMER 2018, 250). OLTMER defines a migration regime as a network of norms, rules, constructions, knowledge, and actions by institutional actors, which affect migration movements (OLTMER 2018, 246). He distinguishes between institutional actors, who seek to exercise their power over migration processes, and others who are involved in the negotiation processes, among them the migrants themselves. Negotiation processes are defined as social relationships, in which each of the actors seeks to assert their own will (OLTMER 2018, 245). This article takes a closer look at the Hamburg and Berlin departments and their relations between each other as institutional actors in the relevant areas, and outlines the role of migrants in the negotiation process. The federal government, the governments of other federal states, and the district administrations, on the other hand, are viewed much more superficially for reasons of space and limited archival sources.

The main part of the article begins with a description of the cases of West Berlin and Hamburg (2) and a brief summary of the reception of asylum seekers until 1974 (3). Subsequently, the consequences of three important ruptures are laid out: (4) the

temporary closure of the Zirndorf federal camp in 1973, (5) the beginning of the direct dispersal of asylum seekers to federal states in 1977, and (6) the prohibition of work for asylum seekers in 1980 and the simultaneous discussions in a working group consisting of the federal government and state governments. Because the effects on the two cities of these ruptures were different, the explanations regarding the respective dates and cities vary in length. At the end of the main part, the 1982 Asylum Procedure Act is briefly explained (7) and categorised before the article concludes with a summary of findings (8).

## 2 The comparative cases of West Berlin and Hamburg

Hamburg and West Berlin are appropriate as objects of comparison for several reasons. Although the three western sectors of Berlin were officially not a constitutive part of the FRG (ROTT 2009, 58–69), West Berlin, like Hamburg, was factually a federal state and a municipality at the same time, which is why social assistance for asylum seekers in both cities was financed from the state budget and not by the districts. Furthermore, in both cities, there was a lively communication between the Senates at the regional level and the districts at the local level. The geographical location of the cities, on the other hand, differed. Hamburg was in the North of former West Germany and was not a noted arrival point for asylum seekers, because it was not in the immediate vicinity of West Germany's borders and had no airport of international importance. It was only in the 1980s that Poles occasionally arrived by sea at the Port of Hamburg (WOLKEN 1988, 200).

West Berlin, however, was surrounded by the territory of the German Democratic Republic, otherwise known as East Germany (GDR). The GDR airport Berlin-Schönefeld was comparatively easy to reach from abroad, as the GDR willingly issued one-day visas for the citizens of many non-European states because they were expected to travel on to West Berlin (LAB 1973a; BRÖKER and RAUTENBERG 1986, 184–186). In addition, the Western Allies and the West Berlin police did not conduct passport controls at the border between West and East Berlin in order not to jeopardise the 'four-power status' of the city, which was an elementary component of their Berlin policy (LAB 1967). The border guards of the GDR in turn tried to prevent the illegal flight of GDR citizens and other Eastern Bloc countries. Nationals of other states, on the other hand, were able to pass through.

For these reasons, the inner-city border in Berlin became one of the most important entry routes for asylum seekers into the Federal Republic during the 1970s. During the 1950s and 1960s, most of the asylum seekers escaped Central and Eastern Europe mainly by land into Bavaria which was the most important receiving region; this is why the Federal Office for the Recognition of Foreign Refugees (*Bundesamt für die Anerkennung ausländischer Flüchtlinge*, hereafter Federal Office) was also located there (POUTRUS 2014, 128–129). However, since the increase in importance of air traffic worldwide, which caused the geographical origin of asylum seekers to change, and the final closure of the Zirndorf camp, more and more asylum applications were made in West Berlin. In 1973, 33% of all asylum applications made in Germany were made in West Berlin, with as many as 60% in 1977, with the annual quota of asylum applications between 1973 and 1982 averaging 28.8% (AHB 1983).

## 3 Developments before decentralisation

According to the 1965 Aliens Act (*Ausländergesetz*), the Federal Office was responsible for all applications for asylum in the FRG. The law also indicated that asylum seekers had to live in camps or a camp district for the full length of their application procedure (AUSLÄNDERGESETZ 1965, 359). At the time, there was only one such camp available. It was located next to the Federal Office in the small southern German town of Zirndorf, near Nuremberg, and was run by the Bavarian state government on behalf of the federal government. As early as the late 1960s, the camp was oftentimes crowded. While the federal government tried to open further camps, no federal state agreed to provide a suitable site (POUTRUS 2016, 885). At the time, most asylum seekers came from Czechoslovakia and were fleeing oppression in the aftermath of the 1968 Prague Spring. Because they – like most migrants from Eastern Europe – were seen as anti-communist and the economy was in need of labour, their reception was never seriously questioned (POUTRUS 2014, 121–123). A 1966 resolution by the State Ministers of the Interior made it clear that even those asylum seekers who were rejected should be incorporated into the labour market and that refugees from the Eastern Bloc were not to be deported under any circumstances (HERBERT and HUNN 2006, 807).

Things started to shift as the economic recession began and the origin of asylum seekers diversified. German migration policy up to that point had always been primarily focused on providing labour

for the economy. Hence, the federal government stopped recruiting foreign labour in November 1973 and took measures to ensure any remaining jobs were given to Germans when possible, thus pushing many labour migrants out of the country (DOHSE 1981, 307–340). At the same time, the share of non-European asylum seekers began to grow rapidly, rising from 6% in 1966 to 83% in 1977 (AI 1978, 165). The status of Africans and Asians as undesired migrants was already made apparent by their exclusion from accessing permanent residency permits on racist grounds (SCHÖNWÄLDER 2004). Non-Europeans were suspected of misusing the asylum application process in order to work or receive social welfare benefits in the FRG. As a result, the overall quota of recognised asylum applications decreased by 27% between 1973 and 1976, although the quota for Eastern Europeans remained unchanged (AI 1978, 156). In contrast to Eastern European asylum seekers who were rejected, those from non-European countries were expected to leave the country; however, many of them appealed this expulsion with the help of lawyers. This appeal process, along with rising numbers of asylum seekers in general, led to longer processing times and the need for additional accommodation beyond the Zirndorf camp (HERBERT and HUNN 2008, 772–773).

## 4 Decentralisation and its consequences, 1973–1977

### 4.1 Temporary closure of Zirndorf camp and decision to decentralise

In light of congestion, the state government of Bavaria, the region where the facility was located, repeatedly closed the Zirndorf camp for short time periods. This led to the State Ministers of the Interior hastily deciding to decentralise the reception of asylum seekers in February 1974, with little consideration for the questions that would arise from this change (POUTRUS 2016, 887–888). A similar burden-sharing system had been established in West Germany as early as 1946 to help absorb the near 10 million people that were displaced during or after the Second World War (BOSWELL 2003, 318). This system envisaged 8% for West Berlin and 3.1% for Hamburg (LAB 1977e). In the case of asylum seekers, the Aliens Act remained unchanged, symbolising the spontaneous and short-sighted nature of the decision. The majority of state politicians continued to see the federal government as being

responsible for the asylum procedure and demanded that it quickly provide additional capacity at camps (StAHH 1973). In the meantime, the asylum seekers were expected to continue to travel to the Zirndorf camp for a short stay to be later distributed to the federal states (DST 1982, 94).

### 4.2 Early dismissive stance in West Berlin

By the time the Bavarian government decided to close the Zirndorf camp temporarily in mid-1973, the asylum seekers' origins had already diversified. Many asylum seekers now came from the Middle East and travelled via East Berlin to the Federal Republic, which is why the effects of the closure in West Berlin were quickly felt. In the second half of 1973 alone, around 1,800 asylum seekers arrived in the city. About 1,700 of them came from 'Arab' countries and 100 from other states. From the beginning, the West Berlin authorities of the SPD senate linked the presence of 'Arab' asylum seekers with a possible 'security risk' for Jews living in the city (LAB 1973b). These suspicions were directly connected with the Munich Olympic attacks by Palestinian terrorists in 1972, after which numerous Palestinians were expelled from the Federal Republic (SLOBODIAN 2013). The term 'Arab' already indicates that there was little interest in the exact countries of origin of the asylum seekers and their corresponding political conditions.

The migrants arriving in West Berlin, who planned to apply for asylum in the Federal Republic of Germany, had to remain in West Berlin for the time being due to the closure of the Zirndorf camp, unless they attempted to travel illegally to West Germany (StAHH 1974). The first local authorities to deal with these newcomers were the social departments of the districts where asylum seekers had to register for social welfare and housing benefits. Correspondences from Berlin's Wilmersdorf and Schöneberg districts depict an essentialist picture of aggressive, demanding young men who could not name any reason for being granted asylum according to German law (LAB 1973a; LAB 1974a).

Convinced that the asylum seekers had only come to Germany to receive social welfare and presenting their institutions as completely overloaded (LAB 1973a; LAB 1974a), district officials proposed the introduction of benefits in kind and central accommodation to the Senate as early as 1974 (LAB 1974c). Initially, the Senator for Labour and Social Affairs, Harry Liehr, rejected these claims on the grounds that housing Arabs in a few community

shelters would ‘significantly increase the security risk’ (LAB 1974c). Regarding the proposal for benefits in kind, Liehr argued that, according to the law, social assistance should ‘enable a life commensurate with the dignity of man’. Already at this point, however, he indicated that contributions in kind were possible, for example, in the case of ‘uneconomic behaviour of the aid recipient’ (LAB 1974b). However, it soon became apparent that the actual share of welfare recipients among asylum seekers was smaller than expected. While the authorities did not have any sufficient statistics for the preceding years, it was revealed that in early 1977, only one third of asylum seekers in Berlin received social welfare (LAB 1977a).

### 4.3 The weak effects of decentralisation on Hamburg

In Hamburg, Ghanaians represented the first group that authorities regarded as ‘bogus refugees’ after decentralisation. The Department of the Interior (*Behörde für Inneres*) of the SPD senate observed that a considerable number of Ghanaians had come to Hamburg with the help of regular visas to study at the university. In the 1970s, many Ghanaians followed and applied for asylum, making up 50% of the total number of asylum seekers in the city and 40% of all Ghanaian refugees in the Federal Republic. As a result of the Senate’s demands, the federal government reintroduced the visa requirement for Ghanaians in 1975, but migrants avoided this by simply entering the country via neighbouring states (StAHH 1978a).

The possibility of being dispersed to another German state apparently did not influence chain migration. In any case, the obligation to travel to the Zirndorf camp and the subsequent distribution was often abandoned when the Zirndorf camp reached capacity and the asylum seeker concerned did not claim any social assistance at the place of arrival (DST 1982, 93). The Hamburg Department of the Interior called the alleged ‘abuse’ of the asylum procedure in late 1976 ‘unbearable’; yet, at this time in Hamburg the only thing discussed was measures to shorten procedures (StAHH 1976a). On the other hand, with regard to the everyday life of asylum seekers in Hamburg, the Social Department (*Behörde für Arbeit, Jugend und Soziales*) launched a programme of language courses to promote gainful employment (StAHH 1976b). In fact, about two-thirds of asylum seekers were employed in 1977 (StAHH 1978b). In the summer of 1977, Hamburg’s allotted quota of asylum seekers was exceeded by only 50 persons. (LAB 1977f).

## 5 Final closure of the Zirndorf camp and introduction of direct distribution, 1977–1980

### 5.1 Federal policy

At the beginning of August 1977, the Bavarian state government decided to close the Zirndorf camp permanently due to constant overcrowding. At the Conference of Interior Ministers in March 1977, the direct allocation of asylum seekers to the federal states had already been decided upon in the event of a further closure of the camp, meaning asylum seekers would not have to pass through the Zirndorf camp (LAB 1977b). In this context, the redistribution key also changed, with the new version stipulating that West Berlin should receive 4.5% and Hamburg 3.4% of asylum seekers (Bundestag 1979). Asylum seekers were now able to choose the place where they applied for asylum in the Federal Republic, unless they were stopped by police on the way there. They were only distributed to another federal state if more asylum seekers than allotted by the distribution regime were already living in the federal state in their place of arrival (MÜNCH 1993, 65).

### 5.2 The special treatment of asylum seekers planned to be transferred in West Berlin

Against the background of these new developments, the Berlin Department of the Interior considered the construction of a transit dormitory for the asylum seekers to be distributed (LAB 1977c). However, the Senate did not envision a camp with several hundred inhabitants, because it was feared that the other states might regard this to be a nationwide camp and thus interpret it as a signal that it was no longer necessary to disperse asylum seekers among the states. At this time, in August 1977, there were approximately 1,100 more asylum seekers in West Berlin than envisaged by the distribution key (LAB 1977f).

Plans for transit homes were accelerated by the entry of a large number of Pakistanis since the beginning of 1977. The visa-free regime for Pakistanis had already been abolished in June 1976 (WOLKEN 1988, 43). Similar to asylum seekers from Jordan, Lebanon, and the Palestinian territories, the Pakistanis arriving in West Berlin were part of a group that already had the reputation of applying for asylum primarily for economic reasons (WOLKEN 1988, 152). The West Berlin Senator of

the Interior, Peter Ulrich, also considered the fact that the majority of Pakistanis were represented by two West Berlin lawyers to be an indication that there was a commercial smuggling network behind their entry (LAB 1977d).

The willingness to take radical measures was correspondingly high. On the one hand, the West Berlin Foreigners' Office – an authority led by Ulrich's department – made excessive use of a new administrative regulation (BRÖKER and RAUTENBERG 1986, 165–171), which gave the local foreigners' offices the opportunity to check whether asylum applications were 'blatantly fraudulent'. If so, the asylum seeker faced immediate deportation. Between late 1977 and early 1979, almost 3,000 Pakistani migrants were impacted by collective deportations within weeks of arriving (StAHH 1979a). This accounted for roughly 85% of newcomers from Pakistan (LAB 1979b).

On the other hand, at the beginning of 1978, transit homes with full board were introduced for asylum seekers in West Berlin who were waiting for transfer to another federal state. These homes were provided by the German Red Cross and the German Workers' Welfare Association (*Arbeiterwohlfahrt*); they were the first communal accommodations in West Berlin that exclusively housed asylum seekers and were operated on behalf of the state (LAB 1978a).

In April 1978, there were around 500 places in such homes and residents were given a cash per diem. As such, the houses did not have enough capacity for all asylum seekers who were awaiting transfer to other federal states. However, this was deliberate, because the Senator for Labour and Social Affairs, Olaf Sund, reiterated the fear that other state governments might refuse or delay the reception of asylum seekers if the impression arose that West Berlin had created an infrastructure for accommodating a large number of asylum seekers (LAB 1978a). The clear discrimination against the residents of transit homes was justified by the claim that they would pass on any cash payments to criminal human traffickers (LAB 1978a; MÜLLER 1979). It was the inner-city border in Berlin that enabled the authorities to observe the behaviour of asylum seekers, which they interpreted in their own way. For example, the police commissioner assessed the observation that Pakistani asylum seekers adapted their wording in the asylum application in order to avoid premature deportation as evidence that the 'organised smuggling [...] had solidified' (LAB 1978a).

### 5.3 Hamburg's growing relevance as an arrival destination

The direct dispersal regime made chain migration and migrant networks even more important for the duration of the asylum procedure. For instance, the high number of asylum seekers registered in the district of Hamburg-Mitte was also due to the fact that many migrants already lived there who had personal relationships with the newcomers and organised private accommodation for them (StAHH 1980b). However, not all asylum seekers found accommodation with relatives or acquaintances. In the summer of 1977, the first Hamburg shared accommodation opened, which contained about 200 places in two- and four-bedded rooms. Documents regarding any political discussions on this topic are not included in the sources. In May 1978, Hamburg's 'surplus' of asylum seekers had risen to twice the quota of the distribution key (StAHH 1978c). In addition to Bavaria, which only housed asylum seekers from West Berlin, Baden-Württemberg and Rhineland-Palatinate refused, at least temporarily, to participate in the redistribution of asylum seekers from Hamburg, which they justified by citing organisational problems with the reception (StAHH 1978d). An attempt by the Hamburg and Bremen senates at the Conference of Interior Ministers at the end of 1978 to work on a legal regulation of the dispersal remained unsuccessful (StAHH 1978e). At that time, about 30% of the asylum seekers were housed in state-run accommodation, with the remainder living in their own homes, shared apartments, or commercial accommodation (StAHH 1978d). Compared with the end of 1977, the rate of employed asylum seekers dropped from around 66% to 50% by the end of 1978 (StAHH 1978d).

## 6 Movement towards deterrence policy, 1980–1982

### 6.1 Nationwide work ban and deterrence policy of other federal states

At the beginning of 1980, a federal and state working group formed to discuss 'immediate measures' in view of the increasing number of asylum seekers (see Fig. 1). In June 1980, it presented its report, which made a clear recommendation on only one point in terms of the daily life of asylum seekers. Despite the contradiction of individual state governments and federal ministries, the group demanded

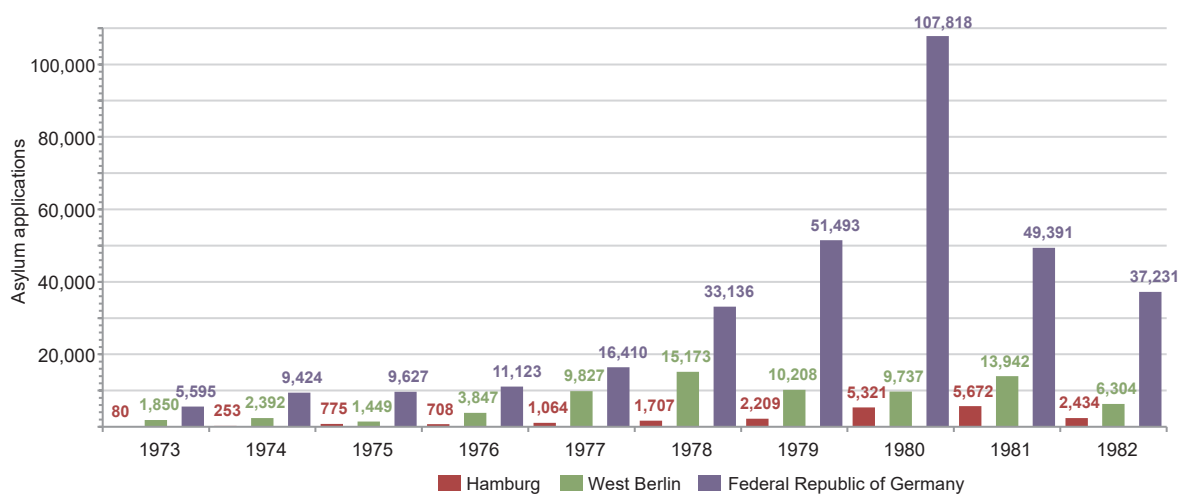


Fig. 1: Asylum application 1973–1982. Sources: AHB 1983; BHH 1982, 1984

that new asylum seekers be denied work permits for the first twelve months of their stay (LAB 1980c). Just a few days later, this recommendation was implemented by the Federal Labour Office by a directive to the local employment offices (StAHH 1980c). Shortly thereafter, the majority of federal and state government leaders issued a statement welcoming the work ban and calling on federal states to ‘pay social assistance as far as possible through benefits in kind’ (*Sachleistungen*) to asylum seekers and seek ‘increased housing in collective accommodation’ (StAHH 1980d).

In the same year, the *Länder* of Baden-Württemberg and Lower Saxony were the first to set up shared accommodations with several hundred places each, in which social assistance was provided in the form of benefits in kind (LAB 1981c). In October 1981, the Prime Minister of Lower Saxony reminded his state counterparts of the decisions from June 1980 and pointed out that Lower Saxony had already created 700 spots in such collective housing, while most other states had barely any. Previously, ‘insurgencies and individual riots’ had already occurred when asylum seekers from such federal states were transferred to Lower Saxony and were surprised by the ‘conversion to restrictive living conditions’. For this reason, Lower Saxony reserved the right to ‘no longer accept’ asylum seekers from these federal states (LAB 1981d). Nevertheless, in 1981, Lower Saxony, along with Baden-Württemberg and Hesse, was still the only federal state with a large number of places in shared accommodation with full board. Schleswig-Holstein introduced similar housing in the autumn of 1981. Until then, all other federal states still paid out social assistance in cash (StAHH 1981a, 43).

Furthermore, in December 1981, the Federal Social Assistance Act was amended to include a clause for asylum seekers, limiting their entitlement to ‘livelihood assistance’, which was to be granted ‘as far as possible’ in kind (BGBl. 1981).

## 6.2 The broadening of restrictions to all asylum seekers: Berlin 1980–1982

The Federal Government’s decision to deny asylum seekers work permits in their first year after arrival was supported by the West Berlin Senate (LAB 1980c). At the end of 1980, Governing Mayor Stobbe said that this measure, together with social assistance in kind, had helped reduce the number of asylum seekers (LAB 1980a).

Initially, the number of places in full board facilities in West Berlin was barely enough to accommodate all new asylum seekers who were to be transferred to other states (LAB 1979a). Moreover, in 1980 an asylum seeker temporarily obtained the right to live outside a communal shelter, receiving rent and social assistance in the form of cash. In the first instance, the administrative court ruled that ‘social assistance funds’ should not be used to ‘force [asylum seekers] to stay in a collective housing facility desirable for foreign policy reasons’ (LAB 1980b). A few months later, however, the Higher Administrative Court ruled against the asylum seeker. It adopted the Senate’s argumentation that the operators of shared accommodation must be guaranteed that the places are occupied – which was why welfare recipients could be admitted there even against their will (LAB 1981e). In early 1981, during the deliberations in the above-mentioned working group of

the federal government and state governments, West Berlin took the position that the decision on the form of accommodation of asylum seekers should be left to the federal states. With regard to social assistance, the West Berlin Senate also wanted to give the federal states a free hand, but to stipulate by federal law that benefits in kind and ‘lower benefits than for German aid recipients due to the lower standard of living’ of asylum seekers were possible (LAB 1981b).

After the parliamentary elections of the summer of 1981, a Christian Democratic Union (CDU) senate ruled in West Berlin. During the election campaign, the Berlin CDU, and especially its spokesperson, Heinrich Lummer, promoted an openly racist crisis situation, suggesting that West Berlin would lose its ‘identity’ and Germans would become ‘strangers’ in their own hometown if the influx of migrants didn’t stop (AKB 1982, 36). The new Senate, with Lummer as head of the Department of the Interior, decided in late 1981 to open up 1,000 additional spots in full-board shared accommodation after much arguing with the Berlin districts because they were reluctant to provide land (LAB 1981f). The measure was justified both in internal documents (LAB 1981a) and the press by the assumption that the other federal states would probably in the future only accept asylum seekers who would come from shared accommodations. In addition, it was emphasised that West Berlin should not be the only federal state without collective housing, because asylum seekers would ‘otherwise feel downright attracted to the city’ (LAB 1981g).

After the CDU faction called on the Senate in October 1981 to enforce the ‘primacy of non-cash benefits over cash payments’ (AHB 1981), the Senator for Health, Social Affairs, and Family, Ulf Fink, began to implement a large voucher system in November 1981. From February 1982 onwards, all asylum seekers in West Berlin received social assistance in the form of vouchers worth 220 German Marks (DM) as well as 50 DM in pocket money paid in cash, whereas the standard rate for German welfare recipients was 350 DM (LAB 1981h). One note mentioned that the reason for the measure was the need to ‘protect the often helpless asylum seekers from exploitation in all respects and to deprive speculators of their financial basis’ (LAB 1981i). The Senate thus referred to alleged smugglers and rhetorically to the criticism of anti-racist groups who had criticised in particular the profiteering of miserable accommodation at inflated rents and the inactivity of politicians in this context (AKB 1981); however, the Senate’s conclusion was completely

different. Likewise, the mayor openly admitted that a change to a voucher system should also serve as a deterrent (LAB 1981j).

At the time of planning for the implementation of a voucher system, around 1,000 out of 16,000 asylum seekers in West Berlin already lived in full-board facilities (LAB 1981i). Approximately 30 asylum seekers from this circle participated in a hunger strike, which started on November 16, 1981, in a left-wing cultural centre. They demanded that the General Declaration of Human Rights should also apply to asylum seekers, which would entitle them to ‘work permits, accommodation, [and] social benefits in cash’. Their demands also included free language and vocational training, the recognition of their asylum applications, and ‘objective’ media coverage to combat the ‘often hostile attitude towards asylum seekers’ (LAB 1981k).

The responsible politicians and officials deliberately behaved ‘receptively’ towards the action in order to avoid the ‘desired publicity’. Only the Senate Commissioner for Foreign Affairs, Barbara John, visited the strikers and rejected all claims (LAB 1981l). Thus, the hunger strike was largely unsuccessful, but many civil society organisations expressed their solidarity with the activists (LAB 1981m). In this respect, the hunger strike action can be seen as a cornerstone for the emergence of the later protest movement (KLEINSCHMIDT 2018).

### 6.3 The incomplete about-face in Hamburg, 1980–1982

The Hamburg SPD Senate in mid-1980 rejected the proposals of the federal and state working group concerning the daily life of asylum seekers. The Social Department, led by Jan Ehlers, held that the proposed one-year work ban was ‘discriminating against people who are willing, capable, and socially intact’, which meant a ‘condemnation to do nothing’. It would also increase welfare costs and lead many asylum seekers to work illegally instead. The Social Department cited ‘significant socio-political concerns’ against the placement of asylum seekers in shared accommodation, in addition to the fact that it would also not be possible to set up the required number of spots in such facilities (StAHH 1980a).

However, in Hamburg the accommodation of asylum seekers was also increasingly perceived as a problem in the summer of 1980. Until that point, most asylum seekers had organised their own accommodation. Due to the sharp increase in the number of asylum seekers and the new ban on employment,



accommodation capacities became scarce (StAHH 1980e). The Social Department proposed to address the problem by renting asylum seekers individual apartments or smaller dorm-like properties for additional accommodation spaces, each with a maximum of 60 spots (StAHH 1980f).

Nevertheless, the accommodation of asylum seekers in ordinary apartments in Hamburg was made more difficult by the fact that asylum seekers, as in West Berlin, were not entitled to a permit for subsidised housing (StAHH 1980g). The only exceptions were asylum seekers of Eastern Bloc countries whose deportation, as mentioned before, was prohibited. Some district offices also wanted to avoid placing asylum seekers in neighbourhoods where many migrants already lived, fearing that 'ghettos' could be created (WOLFF 1982; EP 1980).

Numerous district administrations declared in late summer and autumn of 1980 that they were unable to provide accommodation in individual apartments or dorm-like properties and thus recommended that larger communal shelters should also be considered (StAHH 1980h). The Social Department, as the principal authority on the matter, nonetheless asserted that its decree be adopted in November 1980. However, the districts succeeded in establishing two community centres for asylum seekers with 250 and 130 places, respectively, as an immediate measure (StAHH 1980i). The Department of Finance also criticised the plans of the Social Department out of the fear that the shift could set 'precedents' that 'could affect possible later nationwide regulations' and also 'encourage' asylum seekers to come to Hamburg (StAHH 1980j).

In the meantime, the attempt by Hamburg and North Rhine-Westphalia to set the redistribution of asylum seekers on a legal basis failed in March 1981 in the Federal Council, because countries with conservative governments continued to insist that the federal government was responsible for receiving asylum seekers according to the Aliens Act (BUNDESRAT 1981).

Although many asylum seekers would theoretically have been transferred to other federal states, the re-dispersal procedure in Hamburg was sluggish. In October 1981, almost 1,400 people had not yet been taken over by other federal states. Moreover, so many asylum seekers ignored the request to continue their journey to another location in the Federal Republic of Germany that almost 2,500 asylum seekers more than planned actually lived in Hamburg at that time (StAHH 1981b).

In order to persuade these asylum-seekers to leave Hamburg, the Social Department tried to stop paying out social assistance. At that time, this was the only

leverage the city possessed. However, many of those affected lodged objections and often succeeded. One of them was Sayed Aref H., who had entered West Germany via Frankfurt Airport in January 1980 and applied for asylum there. In Hesse, he received a residence permit, which contained no reference to a spatial restriction and, thus, he moved in the summer of 1980 to Hamburg, where he first subleased and then rented his own apartment. Apparently only after his move to Hamburg, he learned that he had been 're-distributed' by the Federal Office to Hesse and filed an objection to the responsible administrative court in Cologne. In Hamburg, social assistance was first paid to him, but then refused with reference to his alleged obligation to reside in Hesse. On the other hand, when he lodged an objection, the Hamburg Administrative Court and subsequently the Higher Administrative Court ruled in his favour because the appeal against the redistribution to Hesse had a suspensive effect (StAHH 1981c). The district office in Eimsbüttel also reported that several people had successfully filed an appeal against the cancellation of their social assistance (StAHH 1981d). Overall, in the first months after the measure came into effect, only two asylum seekers actually moved from Hamburg to other federal states, which is why a spokesman for the Social Department told the press that the idea was 'a political shot in the foot' (StAHH 1981e). This example illustrates that the lack of a legal basis for the dispersal system not only opened up some leeway for federal states with few asylum applications but also for the asylum seekers themselves.

After these unsuccessful attempts to reduce the number of asylum seekers living in Hamburg, the calls for restrictive measures within the Senate grew louder. The thesis – which was already presented by the Department of Finance earlier on – according to which many asylum seekers submitted their application in Hamburg due to the comparatively high standard of care prevailed in the course of 1981 in most of the Senate departments. This perception was reinforced by the fact that the number of applications declined overall in the Federal Republic, but increased in Hamburg. The nationwide decline, however, was mainly due to asylum-seeking Turks, whose numbers in previous years in Hamburg had always been comparatively small to those of other asylum seekers (StAHH 1981f). On the other hand, the percentage of Ghanaians and Poles in the total number of asylum seekers in Hamburg had been quite high since the beginning of the 1970s. In 1981, 65% of the applications made in Hamburg came from these two nationalities (BHH 1982, 2). The number of asylum seekers from

Ghana and Poland only continued to increase in the Federal Republic in 1981 (WOLKEN 1988, 188 and 198), but this was not mentioned in the documents of the departments.

Consequently, a new working group was set up of which, in contrast to the previous year, the Department of Interior was in charge. The Department of the Interior, the Senate Chancellery (*Senatskanzlei*), the Department of Finance, and most district offices now came to support large communal shelters with benefits in kind and their perceived deterrent effects. In addition, the Senate Chancellery hinted that the other federal states could in the future completely refuse to accept asylum seekers from Hamburg, if the city became an 'outsider' on this issue (StAHH 1981g).

In a Senate internal document, the Department of the Interior stated that the work ban initially rejected by Hamburg had proved to be 'the only truly effective measure against asylum abuse'. In-kind social assistance was a 'necessary complement' to the work ban because cash payment still provided 'sufficient incentives'. The desired full board for asylum seekers could in turn only be organised in 'considerably larger' communal housing, where illegal employment could more easily be prevented. In addition, the 'restrictions on personal freedom' would also have a deterrent effect, as shown by the experiences of those federal states that had already set up camps or large shared accommodations. According to the Department of the Interior, these states had made financial efforts to introduce this new type of accommodation and could now expect the same from the other states. Only if 'all federal states in solidarity' carried out the measure would it have the desired effect (StAHH 1981a, 38–44).

The Department of the Interior therefore presented the introduction of shared accommodation and benefits in kind as a constraint resulting from factors which Hamburg could not influence: the duration of asylum procedures, the lack of legal basis for redistribution and, finally, the policies of other federal states. In fact, in November 1981, against the will of Social Senator Ehlers, the Senate decided that new asylum seekers should be accommodated in shared accommodation with full board (SCHÜTTE 1981).

These decisions were followed by protests from civil society: a group called 'Asylum Working Circle' (*Arbeitskreis Asyl*) demanded, for example, the waiving of the planned tightening and, in turn, apartments for all asylum seekers and a lifting of the work ban (ANON. 1981). In an open letter published in the press, they accused Senator of the Interior Pawelczyk

by calling his 'camps' a 'constant violation of privacy, aggression and conflict' and 'total isolation from the environment'. By abolishing social assistance as a cash benefit, one would take away from asylum seekers 'the last chance to occupy oneself' (HAA 1981). Similar allegations were raised by the newly formed 'Committee of Asylum Seekers' (*Komitee Asylsuchender*) in another letter co-signed by 55 civil society organisations (ANITA 1981).

The Social Department was commissioned to examine the extent to which the conversion to shared accommodations and benefits in kind was possible. It said that it would cut social assistance rates for asylum seekers by 10% and issue vouchers to retailers for household and clothing purchases in the future. Regarding the provision of food for residents of shared accommodations, the Social Department saw the only potential option as entrusting the preparation of meals to public or private canteen kitchens. However, this would not be expedient due to the 'considerable organisational cost' (StAHH 1982a). In addition, the Social Department partially adopted formulations of the pro-migrant critics and emphasised that full board would further increase the 'time of "prescribed" doing nothing' (StAHH 1982b, 11). Although the Department of the Interior insisted that higher spending was legitimate, when it came to reducing 'incentives' (StAHH 1982c), the Social Department's submission, according to which the part of the social assistance for nutrition was paid out in cash, ultimately remained unchanged (StAHH 1982d). The criteria for the establishment of shared accommodations provided for a maximum number of 200 inhabitants and 8 square metres per person (StAHH 1982b, 7).

## 7 The 1982 Asylum Procedure Act

After lengthy deliberations, the Asylum Procedure Act was passed in July 1982. On the one hand, this contained numerous provisions aimed at tightening procedural law, which had been demanded by the conservative state governments. On the other hand, two important paragraphs regarding the daily lives of asylum seekers were included. The states with above-average numbers of applications to date were able to achieve the legal definition of the so-called Königstein key (*Königsteiner Schlüssel*) as the basis for the dispersal of asylum seekers among the federal states in the form of § 22. Both Hamburg and West Berlin had previously advocated for this (BUNDES RAT 1982). According to

the new distribution key, which was based on the tax revenue and the population of the respective states, Berlin had to absorb only 2.6% and Hamburg 3.3% of the asylum seekers.

Initially, the four conservative-governed states of Baden-Württemberg, Bavaria, Schleswig-Holstein, and Lower Saxony had been sceptical about a codification of the dispersal, because they feared that they might be obliged to accept asylum seekers who were supposedly attracted by the high standard of social assistance in other federal states (BUNDESRAT 1982). Finally, in the mediation committee (BUNDESTAG 1982) the negotiators agreed, among other things, on the insertion of § 23, according to which ‘foreigners who have applied for asylum should [...] normally be accommodated in shared accommodations’ (AsylVfG 1982).

## 8 Conclusion

The starting point for the developments described in the article was the combination of three circumstances. First, non-European asylum-seekers were considered by a large part of the German public and politicians as cultural ‘others’ who would ‘abuse’ asylum law to allow them to stay in

the Federal Republic. Second, any social assistance for asylum seekers had to be financed by the municipalities or, in the cases of Hamburg and West Berlin, by the city-states. Third, there was no legal basis for dispersing asylum seekers to federal states. Consequently, states with an above-average number of asylum applications were interested in the functioning of the dispersal system, but this interest was not institutionalised at any scale until the 1982 Asylum Procedure Act.

During the period between the decentralisation of the reception of asylum seekers and the adoption of the 1982 Asylum Procedures Act, three different phases of local asylum policy can be observed (see Tab. 1). The first one until 1977 was marked by a dismissive stance in West Berlin, while in Hamburg, the Department of the Interior already condemned the alleged ‘abuse of asylum’, but the Social Department was rather benevolent. In none of the cities were measures taken that directly concerned accommodation or the form of social assistance.

With the introduction of direct dispersal in 1977, a phase began that was characterised by a dynamic between the federal states, which had far-reaching consequences for the granting of benefits to asylum seekers. In the beginning of 1978, West Berlin set up medium-sized homes with benefits in kind for

**Tab. 1: Developments in the distribution of and social assistance for asylum seekers, 1974-1982 (\*for asylum seekers to be transferred to other federal states)**

	Federal regulations	Hamburg		Berlin	
	Dispersal model	Accommodation & welfare	Planned quota	Accommodation & welfare	Planned quota
1974–1977	Static: quoted distribution from the Zirndorf camp	Decentralised accommodation, cash benefits	3.1 %	Decentralised accommodation, cash benefits	8 %
1977–1981	Dynamic: Direct dispersal between states	Decentralised accommodation, cash benefits	3.4 %	since 1978: central accommodation, benefits in kind before dispersal*	4.5 %
<b>1982, Before and After the Adoption of the Asylum Procedure Act (APA)</b>	<i>Before APA</i> Dynamic: Direct dispersal between states <i>After APA</i> Static: legally anchored distribution quotas for direct dispersal	Since early 1982: central accommodation, partial benefits in kind	After APA: 3.3 %	Since early 1982: central accommodation, benefits in kind	After APA: 2.5 %

Sources: AsylVfG 1982; BUNDESTAG 1979; DST 1982; LAB 1977e, 1978a; 1981i; STAHH 1978d, 1982d

asylum seekers, who should be transferred to other federal states. These homes were supposed to promote rapid distribution, but at the same time, they were not intended to create overcapacity because the Senate feared that other federal states could deem these new houses to be a new collective camp and stop redistribution.

The relationship between central accommodation and the dispersal of asylum seekers made a sudden about-face, as the number of asylum applications in West Germany rose sharply and some federal states moved towards a rigorous deterrent policy. The work ban at the federal level in mid-1980 was part of this policy and increased the need for accommodation in all states, because from then on all newly arriving asylum seekers were dependent on social assistance.

Now, both the Hamburg Senate and the West Berlin Senate felt pressured by other federal states to also set up shared accommodations with benefits in kind so as not to endanger the dispersal. At this point, OLTMER'S (2018) concept of the migration regime and the negotiation can help explain why in West Berlin at the end of the investigated period there was a much stricter policy than in Hamburg. One element of the migration regime in both cities was the knowledge that the majority of asylum seekers had no chance of recognition. The constellations of actors were the same, because the Social Departments and the Departments of the Interior were primarily responsible for asylum policy in both cities. However, the views of the social senators differed in one important respect. Hamburg Social Senator Ehlers considered collective housing with benefits in kind inhumane and therefore rejected them in principle. By contrast, in 1978, Ehlers' Berlin party comrade, Olaf Sund, had already approved homes with benefits in kind for asylum seekers awaiting dispersal, on the grounds that the asylum seekers would forward cash to their supposed smugglers.

Regardless of the truth behind this allegation, this points to the geographical location of West Berlin as an important framework for the local negotiation between the Senate and migrants. The observation of entry allowed certain interpretations, which eventually led to a particularly strict asylum policy, which was also expressed in the collective deportations of Pakistanis. In fact, since the second half of the 1970s, the West Berlin Senate has been supplementing the Bavarian state government in its role, which POUTRUS (2016, 884) describes as a 'strict gatekeeper' which 'strove to take a particularly restrictive stance on all asylum issues'.

While entry via GDR Berlin-Schönefeld Airport showed a certain autonomy of migration, the resistance of the migrants in Hamburg expressed itself in often successful refusal of distribution to other places in the Federal Republic. Both behaviours influenced the position of Hamburg and West Berlin in the competition of the federal states before the Asylum Procedure Act of 1982. The new dispersal regulation ended the dynamic phase of previous years, because the interests of the federal states were now codified at the nation state level. Clear losers in the dispute between the federal states, however, were the asylum seekers, whose legal claims to benefits had been significantly curtailed in previous years. Thus, the foundation stone was laid for the marginalisation of asylum seekers, which, despite partial improvements, continues for many of those affected to this day (PIEPER 2008; TÄUBIG 2009).

### Acknowledgement

Thanks are due to Charlotte Räuchle, Svenja von Jan, and the two anonymous reviewers for constructive feedback on an earlier version of this article. Special thanks to Simon Sperling for considerably helping to shape the second version. All errors are my own.

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