

Bachelor Thesis

**Human Rights Violations in Europe –
The Case of Living Conditions of
Asylum Seekers in Germany**

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Abstract

Generally, this study deals with living conditions of asylum applicants in Germany. The research question can therefore be phrased as “In how far are policy and practice on living conditions of asylum seekers in Germany today in accordance with human rights?”. Based on a number of scientific articles, it is expected to that policy and practice in this regard do not comply with human rights norm due to a tension between the proclamation of cosmopolitanism, including human rights and national interests. The term living conditions includes housing conditions, health care, education and work as well as the treatment by public authorities. It is found out that some policies at the EU, but especially at the national level and the practices related to them contradict human rights. More precisely, the right of human dignity is not respected since the conditions in the reception centers are below human standard. Further, the amount of benefits lies below the existential minimum. On top of that, it becomes obvious that the German authorities do not wish to integrate the asylum seeker into the community. Reasons for this are national interests, such as the wish to save money as well as a lack of interest in the topic.

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I. Introduction

Over the last few years between 200,000 and 450,000 people have annually entered the countries of the European Union (EU) seeking for individual protection from persecution in their own country on grounds of religion, race, political opinion, etc. (Eurostat, 2007). The European Union offers asylum based on Article 18 of the Charter of Fundamental Rights of the European Union, stating that asylum shall be granted according to the provisions of the Geneva Convention of 1951 and its Protocol from 1967 as well as further provisions in the Treaty on European Union and the Treaty on the Functioning of the European Union. Since 1999 the area of asylum has been harmonized within the European Union. However, this harmonization does not apply when it comes to living conditions of asylum applicants after arrival, before the asylum request has been decided on. The exact conditions are still within the competences of the Member States themselves. Living conditions are in so far an important topic for the asylum seekers since the approval of the asylum request can take a considerable amount of time, in some cases up to several years (Directorate General Home Affairs, 2011).

One of the European countries popular among asylum seekers is Germany. In 2010, for example, almost 49,000 people applied for asylum, the number is only topped by France, Italy, the United Kingdom and Sweden (Bundesamt für Migration und Flüchtlinge, 2011a). The right for asylum is, as already mentioned, on the one hand laid down in Article 18 of the Charter of Fundamental Rights of the European Union and therefore also applicable for Germany. However, it is also granted in the German constitutional law, Article 16a (Bundesamt für Migration und Flüchtlinge, 2011b). Iraq, Afghanistan and Turkey are the main countries of origin of applicants in Germany (Bundesamt für Migration und Flüchtlinge, 2009). These facts show that asylum can be considered as an important topic in Germany. Another fact, which makes the case of Germany interesting, is a special change in the asylum law, the so called *Asylkompromiss* (asylum compromise) from 1993. It allows asylum only for people, who did not enter Germany from a safe third country. Since Germany is surrounded by these so called “safe countries”, as it geographically lies in the middle of Europe, the only possibility to enter Germany directly is by plane. This policy was accepted in order to decrease the number of asylum applications in Germany (Bundesamt für Migration und Flüchtlinge, 2011b).

There has already been extensive research on topics related to asylum. Examples of these topics are asylum flows, reasons for asylum seeking as well as ways of entering the safe country. However, hardly any research has been conducted on the time asylum seekers spend in the safe country waiting for replies to their asylum request and their living conditions during that time. Nevertheless, there are a number of scientific articles dealing partly with human rights more generally that serve as a basis theoretical background for the following research, such as one by Lydia Morris.

As she mentions in her article “An emergent cosmopolitan paradigm”, there is a tension between today’s ideal of a cosmopolitan society and its local realisation in modern countries. She sees the reason in a struggle between the ideal of cosmopolitanism and still prevailing nationalism within the countries. One of the ideals related to cosmopolitanism is human rights and therefore also the right to seek for asylum (Morris, 2009). This tension has also been described by other authors, such as Daniel Levy and Natan Sznaider. However, they find a solution to the tension between human rights and national sovereignty as to transform national sovereignty into a de-nationalized legitimacy of states (Levy & Sznaider, 2006). Nevertheless, the main line of the two articles is still that there is a tension between the cosmopolitan society most European countries strive for and the actual realisation of this concept due to national constraints.

This tension is also analyzed in an article by Pirjola, examining the European Asylum Policy as a whole (Pirjola, 2009). This thought, therefore, serves as a basic theory for this research on asylum. Other authors more specifically focus on asylum seeking and the EU’s ambivalent role between protecting their borders and supporting refugees. An example is Silja Klepp in her article on the contested asylum system of the European Union. Although the main focus in this article lies on the process of getting to the borders of the European Union, it is still argued that human rights are undermined by local practices and politics, which concentrate mainly on border protection and can therefore be regarded as national rather than cosmopolitan. She is afraid that this, in the long run, influences EU policies as a whole, therefore driving the European Union towards a less cosmopolitan approach (Klepp, 2010).

Based on this, the research for this Bachelor Thesis will focus on living conditions of asylum seekers in one EU Member State, more precisely Germany and the expected tension between the local conditions for asylum applicants in this country and the value of cosmopolitanism and human rights. It will deal with policies on the one hand and the local practices and actual conditions on the other hand. The main aim of this research is to show how asylum seekers in Germany practically live and what problems they face. Further, the goal is to be able to judge in how far this complies with cosmopolitan values, more precisely human rights. Therefore, the research question for this thesis can be phrased as followed:

In how far are policy and practice on living conditions of asylum seekers in Germany today in accordance with human rights?

Since this question includes a number of aspects, it is necessary to break it down into a number of sub-questions to be able to answer it in total.

- I. What are policies concerning living conditions for asylum seekers in Germany?
- II. What is the actual practice regarding living conditions of asylum seekers in Germany like?
- III. In how far are policy and practice in accordance with human rights?
- IV. In how far can national interests be a factor in explaining non-compliance?

These four sub-questions are based on each other in so far that the policies and practices with regard to living conditions are compared. This forms the basis for the final judgment in how far these findings are compatible with human rights norms. The expected outcome underlying these questions is that there is a tension between the acceptance of human rights provisions in Germany and the policies on the one hand, but mostly the practical realisation of these policies. It is assumed that the local conditions for asylum seekers are not in all regards acceptable when compared to human rights.

The research questions will be answered using different research approaches. The first two questions are descriptive in nature, whereas the last third one is evaluative. The last question can be considered as being of explanatory nature. Generally, it is aimed to describe and evaluate the case of Germany and further develop new knowledge in how far human rights are accepted when it comes to asylum. In order to answer the first question, already existing data by the German government as well as scientific literature will be used. For the second sub-question, data from reports by non-governmental organizations dealing with human rights will be used. Further, information from an expert interview are applied. The third question is based on this information and compares the data with human rights provisions to be finally able to prove the expected outcome right or wrong. The last question tries to find a reason, why the assumed outcome is apparent.

Concerning the content, this thesis will start by outlining the theoretical background on which the research question is based on. Further, the methodology will be explained, including the conceptualisation of the most important terms necessary to conduct the research. Thirdly, the analytical part includes information on national and EU policies concerning living conditions of asylum seekers as well as data on the local realisation of these policies. A comparison will be drawn between these two aspects and lastly, the hypothesis mentioned above will be tested using the information gathered in the former sections. To conclude, there are a number of practical policy implications to improve the situation.

II. Theoretical Framework

Based on a number of scientific articles by different authors, it is possible to build a framework of theories surrounding the topic studied in this thesis. Generally, there has been extensive research on asylum and topics related to it as well as on human rights more general. Many authors studying this area of research experience a phenomenon that modern European countries commit themselves to human rights, more precisely they opt for a cosmopolitan view, but once it comes to the actual realization of human rights in local conditions, a rather national view leads to a certain lack of acceptance of human rights. Since the rights to apply for asylum is laid down in a number of binding human rights documents, it can be considered as a human rights and therefore as a cosmopolitan approach. However, before this theory can be brought into a valuable hypothesis for this study, there are certain background information necessary to understand the extent of this topic. In this chapter there will first be an introduction of the theoretical background as laid out by different scientific authors that is necessary to conduct this study. Hereby, the term cosmopolitanism in relation to human rights will be explained as well as its tension with national interests. Further, there will be examples of authors, who have experienced this in practical research. Lastly, it will be laid out in how far this knowledge is valuable for this study and what it has delivered for the next chapters.

a. Cosmopolitanism and Human Rights

Before being able to work with terms, such as cosmopolitanism, it is important to agree on a more or less common definition. There are different definitions of the term, which are partly contradicting. On the one hand, there are authors, such as David Held, who see cosmopolitanism as a normative ideal. He claims that it provides universal principles and guidelines with regards to politics, economics and law on which it is ethically correct to act (Held, 2004). He thereby mostly uses Immanuel Kant's description of the cosmopolitan, in which the notion of universal rights and laws leading to peace is central (Papastephanou, 2002).

This approach has been criticised by a number of other authors, who propose a different outlook on the term, one of them being Edgar Grande. In his article on cosmopolitan political science, he brings forward arguments against the idea of cosmopolitanism only being restricted to a normative global ideal. Therefore, he proposes to see cosmopolitanism from a wider scope as being a new methodological factor. To stress the importance of this definition, he calls cosmopolitanism as being able to re-invent political science in total, since it newly defines the boundaries between the national and the international. In his article the author describes cosmopolitanism as transcending national sovereignty into a new form of complex sovereignty. It can be said to be the institutionalisation of fundamental normative ideals, such as human rights (Grande, 2006) as defined by D. Held (Held, 2004) and others. Grande sets up a number of criteria to be able to prove in how far a political

authority can be characterised as cosmopolitan. These six criteria include the establishment of international law being superior to national law as well as creating procedures of decision making that restrict veto powers of single nations. Further, political authorities need to enable and control transnational rule-making to be considered as cosmopolitan. The fourth criterion is the ability to influence national decision-making by establishing a public space not hindered by national borders. Further, it needs to include different ethnic groups in decision-making. The last criterion asks for democratic forms of participation and accountability (Grande, 2006). From these criteria, a workable definition of cosmopolitanism can be withdrawn for this research. However, it needs to be noticed that cosmopolitanism in this definitions also includes regional organisations, such as the European Union and does not necessarily focus on the global situation.

This factor is included when considering a definition of cosmopolitanism by Robert Fine. His definition of cosmopolitanism in relation to human rights states that cosmopolitanism can be seen as a “global order in which the idea of human rights is an operative principle of justice, with mechanisms of global governance established specifically for their protection” (Fine, 2010). However, he also acknowledges that the term cannot be only restricted to human rights, but also includes the ideas of universal peace and social solidarity, international law and a global civil society (Fine, 2010).

b. Cosmopolitanism in Relation to National Interests

A number of authors studying the topic of human rights discovered a tension between states committing to cosmopolitanism, which includes a commitment to human rights, and the local conditions necessary to fulfill this commitment, more precisely a tension between cosmopolitan ideals and national concerns. This thesis was, among others, developed by the authors U. Beck and N. Sznajder, who call for a new conceptualisation of the term cosmopolitanism within social sciences. Generally, the authors state that definitions of society and politics have emerged from a view which focuses on the nation state to a view towards a cosmopolitan world. Cosmopolitanism is by them defined as “dualities of the global and the local, the national and the international, us and them [that have] dissolved and merged together in new forms” (Beck & Sznajder, 2006). Beck and Sznajder state the importance not to see cosmopolitanism, as apparent in today’s life, in a normative way, but to see it as, so called, reflexive cosmopolitanism. This idea includes that at this moment we are in a self-reflexive global age that offers the possibility to put cosmopolitan ideals into reality. However, this will not necessarily happen by itself and therefore we can merely look at the world at this stage as on the way of cosmopolitanisation. When looking at cosmopolitanism as compared to nationalism, the authors claim that these two do not necessarily have to be exclusive. Nevertheless, there is still a dilemma when bringing the two concepts of nationalism and cosmopolitanism in relation. According

to Beck and Sznajder, cosmopolitanism negates nationalism, but also presumes it. On the one hand, nationalism stabilizes, but on the other hand contradicts cosmopolitanism and forces a transformation of the nation state (Beck & Sznajder, 2010).

This article delivers important theoretical background for the study of asylum seekers, since it provides hints on the fact that cosmopolitan and national ideas can clash when looking at certain situations and therefore proposes that it is worth questioning if this is also true for the field to be studied in this thesis. This thought has also been brought forward with focus on Europe and a European identity by other authors, such as M. Kaldor. According to her, cosmopolitanism has to be defined based on Kant as including two aspects, namely humanism or human rights and a “celebration of diversity” (Kaldor, 2004). Based on this, she argues that it is possible to have some aspects of nationalism in a cosmopolitan ideal world, but not in so far as having closed national societies (Kaldor, 2004).

c. Practical Research on the Tension Between Cosmopolitanism and National Interests

When looking how this theory has been put into practical research related to asylum, Lydia Morris can be seen as an example. In her article “An emergent cosmopolitan paradigm? Asylum, welfare and human rights” she examines the withdrawal of welfare support for late-claiming asylum seeker in the United Kingdom. By analysing court cases before different UK courts dealing with this topic, she tries to find out in how far national or cosmopolitan paradigms prevail in the court rulings. She examines the differing positions of the judges dealing with the cases and identifies if they can be categorised to go into a more cosmopolitan or a more national direction. To come up with two measurable paradigms, she sets up a catalogue of statements which can be regarded as being cosmopolitan, such as the primary importance of fundamental human rights over policy concerns and the imaginative identification with the targeted group of immigrants as opposed to more national statements, such as the emphasis on the idea of legislation to protect from abuse of the asylum system.

The author argues that the question comes down to the interpretation of Article 3 of the European Convention of Human Rights, protection from torture and inhuman and degrading treatment or punishment, with regard to not giving welfare rights to late claimers as being a positive act of the state or just a failure to protect. After examining a number of cases over some years, it is found out that both paradigms prevailed from time to time. Nevertheless, in two of the most important cases dealing with this matter, the focus was clearly on the national paradigm by decreasing the scope of indicators for being treated in an inhuman or degrading way. In the following, however, a set of criteria was developed within case law to settle that problem, so that a general trend towards the

cosmopolitan paradigm can be noticed. Concluding, Lydia Morris discusses the practical effects of the court rulings, by stating that, when looked at critically, they do not have an overall impact on improving the conditions for late claimers, since legislation has not been judged to be against human rights. They can merely be seen as a symbolic force towards a cosmopolitan paradigm (Morris, 2009).

Another example of a research based on this assumption is J. Pirjola in his article on the European Asylum System. In this research he also discovers a tension between the commitment of certain states to cosmopolitan values and human rights and particular national or also European Union interests. He states that the European Union has definitely committed itself to human rights, more precisely the possibility to seek asylum within its territory, by the Geneva Convention and later again by conclusions decided on in Tampere 1999, which focuses on establishing tasks for the Directorate General for Justice, Freedom and Security to create a Common European Asylum System. The conflict is seen by the author in the establishment of common border protection, going hand in hand with the afore mentioned acceptance of asylum. Based on this, he sets up the hypothesis that the commitment to asylum protection can rather be seen as a farce, the main focus lies on increasing border protection and keeping refugees out of the EU territory. In his research he analyses European policies on border protection and asylum in detail and concludes that the EU generally commits to human rights by abstract commitments, however, these commitments are not easily put into concrete policy. The struggle between human rights and self-interest is always apparent in the policies and it is necessary to balance out resulting in a fair treatment of asylum seekers (Pirjola, 2009).

This struggle within the European Union is also examined by Silja Klepp, when studying the EU external border of Africa. Her theory is that the practice of border protection on Europe's southern border does not comply with cosmopolitan values. Going further, she suggests that these practices might then eventually influence policy making in this area towards a less welcoming approach for asylum seekers. The author monitors less favorable conditions for asylum seekers to enter the European Union through restricted access for non-EU citizens as well as increased border control. She sees these practices as contradicting the fundamental statement by the European Union to support refugees in cases of persecution in their home countries and provide asylum if this situation is found to be severe enough. This article examines policies regarding cooperation on migration issues between Italy and Lybia and policies on border control missions by the European border agency Frontex to keep illegal immigrants from entering territory of the European Union. She argues that in this case the principle of non-refoulement is undermined (Klepp, 2010). This principle within international law forbids states to return a refugee to a country, where he might be subject to torture or persecution. An exception is if that person has committed a serious crime (Duffy, 2008). The problem with complying to this principle when looking at this specific region is, according to Klepp, the fact that in border

regions, decisions are partly made directly by a variety of actors, without consultation of the proper European Union organs. Further, some European Union organs related to this field, among them Frontex, can be said to have questionable decision-making procedures. The author is afraid that these practices can in the long run influence actual policy making with regards to border control and migration (Klepp, 2010). Based on this, the article presents another example of the theory that national interests can clash with cosmopolitan values and what consequences this can have.

d. Conclusion

The findings by these authors researching the area of cosmopolitanism, human rights and asylum seekers is important for this thesis, because it helps to develop a theoretical background as well as a possible hypothesis about the outcome of this research. Generally, deciding on a definition of cosmopolitanism is difficult due to a number of different opinions in the scientific world. However, what can be taken as granted is that cosmopolitanism includes the commitment to human rights and this can be considered as being important for this research. Further, this theoretical part has shown that it is possible to detect a conflict between measures associated with nationalism and cosmopolitan values, such as human rights. This leads to a tension between state's proclamations of cosmopolitanism and the actual realisation in local settings as has been proved by some authors. This can serve as a hypothesis for this research. It is expected this to be true also for the case this thesis is dedicated to, namely the living conditions of asylum seekers in Germany. The answer to the research question is therefore that neither policy nor practice with regard to asylum seekers are completely compatible with human rights documents. Further, I expect that human rights provisions are partly not valued due to national interests, such as the costs of supporting asylum seekers.

III. Methodology

In this chapter the methodology used for conducting this research will be presented. Firstly, the method of data collection will be laid out. This includes information on what data is necessary to answer the research questions and how that data was gathered. Secondly, the method of data analysis will be explained. This includes the conceptualisation necessary for this research as well as information on the way the data will be analysed.

a. Method of Data Collection

Since the method of data collection is different for the four sub-research questions, it will be presented separately. Generally, it can be said that the first two questions can be considered as being of descriptive nature, which sets them apart from the last two questions. The first research question deals with German policies with regard to living conditions of asylum seekers. To answer this, mainly actual policies are necessary, but also interpretation of the articles. Therefore, policy publications by the German central government will be used. Further, policy by the German federal governments will be taken into account due to the fact that living conditions are partly decided on by the German *Länder*. Generally, the focus will only be on policies that are legal at this moment and not on former laws and the development of asylum policies.

With regard to the second research question, namely what local practices concerning living conditions are like, the method of data collection is twofold. First of all, an interview will be presented. The interview can be categorised as an expert interview in the field of asylum, since it is conducted with an employee of a refugee council, more precisely the North-Rhine Westphalian Refugee Council. This Council is an independent network of initiatives and councils dealing with the support of refugees and asylum seekers. Its main focus is on refugees in North-Rhine Westphalia, one of the 16 German *Länder*, however, the situation is comparable in all federal states. On top of providing a network for different actors and being represented in a number of committees, the council also supports the refugees directly by representing them facing public authorities as well as the public in general (Flüchtlingsrat NRW e.v., 2009). Especially the direct contact to asylum seekers makes this Council a good source for information related to the second research question. The interview will be a semi-structured interview consisting of open-ended questions. Since the interview is conducted with an expert in the field of asylum, this concept seems to provide the possibility to get as many information as possible from the interview. The interview has an approximate length of one hour and is conducted in German. Afterwards, the data is translated into English by me. The interview was not recorded, but the interview questions can be found in the appendix (see Appendix a). The second source of information are reports by non-governmental organisations. Some of those dealing with human rights have examined the case of Germany especially concerning the living conditions and data derived from these reports can therefore be used for this case study. In order to be able to work with reliable data, only big and well-known organisations will be chosen, such as Amnesty International. These can be considered as providing reliable information due to the fact that they can be held responsible by the public and by contributors. These information are all in the form of quantitative data. As already mentioned when the first question was discussed, the focus of this study lies on the present, not on the development over times.

The third and the fourth research question is based on the data that is gathered as mentioned above. Therefore, no further data collection method is necessary to answer in how far policy and practice comply with human rights norms. The third question, namely in how far policy and practice are in compliance with human rights, is an evaluative question. It compares the data analysed in the first analytical part with human rights norms. The basis for the comparison will be human rights norms as laid down in the Charter of Fundamental Rights of the European Union as well as the basic rights as laid down in the German constitution, Articles 1 to 19. The fourth question can be considered as being explanatory, since it asks in how far national interests can be a reason why human rights are disregarded when it comes to living conditions of asylum seekers.

b. Method of Data Analysis

The second part of this chapter deals with the method of data analysis, including the conceptualisation of the most important terms. Generally, the data related to the first two questions are analysed by using the method of open coding. This method is most appropriate due to the fact that, after conducting the interview and reviewing policies as well as reports by non-governmental organisation, there is a big set of qualitative data. In order to be able to work with this data set, the information will be gathered in codes. Hereby, the ideas and meanings behind the interview transcription and reports are exposed. Afterwards, the information will be brought together in categories, representing the concepts used in the research. The main category related to the first two questions is living conditions, however, there are sub-categories that are similar to the concepts as explained in the conceptualisation.

As already mentioned, the most important term with regard to the questions how the situation of living is for asylum seekers in Germany is “living conditions”. Based on scientific research and common sense, this term includes four different aspects. It is obvious that this term could also include a number of other aspects, however, for the sake of the study of asylum seekers, these items can be considered as being enough. Nevertheless, this study can also be seen as a basis for more extensive research that can include more aspects. Firstly, it deals with the question of accommodation. The second aspect is health care, more precisely in how far it is provided for asylum seekers. Also included in the term living conditions is the possibility to work and receive education. The last important aspect is the treatment by German officials and the German bureaucracy. There are a number of scientific articles linking these factors to living conditions and stressing their importance, which will be presented in the following lines.

There has been research on the effect of inadequate housing conditions, such as having to live in reception centres, on people, mostly on children. An example is a study by M.L. Seeberg *et al.*, who

examined housing conditions for asylum seeking children in Norway. Generally, the importance of enough space and children-friendly rooms, including the access to toys, is stressed. Further, the access to playground inside as well as outside is important for the child's physical and psychological development (Seeberg *et al.*, 2009). Although this study only focuses on children, the importance of a living space in which people can live in a dignified way can also be considered as being important for adults. This is pointed out in an article by D. Silove *et al.*, who mention different factors that can be considered as post-migration stress factors, especially if asylum seekers already had traumatic experiences prior to their arrival in a safe country. Among them are lack of money, etc., but also the lack of proper housing (Silove, D. *et al.*, 1997).

As mentioned above, another factor included in the term living conditions is the access to health care. There is also scientific prove that this influences asylum seekers to a high extent. A high number of asylum seekers originally come from regions with a less developed health care system. On top of that, poorer regions often have more problems with infectious diseases, such as tuberculosis and HIV/ Aids. Further, some asylum seekers have experienced mental trauma, such as torture prior to their arrival. However, not only events that happened before the arrival can be dangerous for the health of the asylum seeker. Stress and uncertainty about the future as well as problematic housing conditions can affect someone's health and these problems are definitely reality for most refugees. Therefore, it can be concluded that asylum seekers are at the risk of being sick more often and severely than other citizens (Norredam *et al.*, 2005). These facts make a proper health care, physically as well as psychologically, very important and necessary and therefore it can be regarded as being part of the concept of living conditions.

The third item that can be considered as being part of the conceptualisation of living conditions is the possibility to work or educate themselves or get education. The possibility to work and to earn some extra money is in so far important since it has a direct effect on the living conditions. To be able to receive education or possibilities to educate oneself is obviously important with regard to a possible future in the new country, however it also has an effect on the time before the asylum request has been decided on. Not having the possibility to work has an influence on the mental and physical health of people as has been examined by a number of scientists. An example of the effects of being unemployed can be depression and anxiety. Generally, it has been found out that people, who do not work although they would like to suffer from low self-esteem. Further, they have to see a doctor and take medication more often than people, who have a job (Linn *et al.*, 1985). Another part of this item is education for children, namely if they have the possibility to attend public schools. The last aspect that is included in the conceptualisation of living conditions of asylum seekers can be labeled "treatment by officials". This includes effects the treatment during the process of the asylum

application has on living conditions, such as in how far the applicants are able to understand the documents and factors similar to this.

The third research question about the compliance of the policy and practice with human rights norms can be considered as evaluative, as already mentioned. Based on this, the conclusions drawn in the first two questions are brought into relation with human rights documents. Further, the analysis will include scientific opinions on the compliance as well as opinions by non-governmental organisations. The fourth question asks for reasons why a non-compliance could occur and proposes national interest as a possible factor.

c. Conclusion

This chapter has provided two insights for the further chapters of this study. First of all, the method of data collection was laid out. To sum up, the data will be gathered through policy documents as well as through an interview and reports by non-governmental organisations. Concerning the method of data analysis, open coding will be used. Hereby, the term living conditions is conceptualised to serve as categories for this method. Housing, health care, work and education as well as treatment by officials are therefore seen as part of living conditions. Based on this methodology, the analysis can be conducted in the following chapter.

IV. Analysis

This chapter includes the actual analytic part of this study. It is divided into four sub-chapters. Firstly, there will be information on European Union and German national policy with regard to the rights to asylum and more precisely with regard to living conditions of asylum applicants. Followed by this, there will be the analysis of the actual practices concerning this topic, following the conceptualisation by analysing accommodation, health support, education and work as well as treatment by officials. Thirdly, this chapter includes an analysis in how far these two factors of policy and practice are in compliance with human rights provisions and finally it will be evaluated what possible reasons for a breach of human rights could be.

a. Policies on Living Conditions of Asylum Seekers

i. EU Level

Generally, the right of asylum is stated in a number of binding documents. On the European Union basis it has been laid down in the Charter of Fundamental Rights of the European Union. According to that Charter, which has been binding on the EU Member States since the Treaty of Lisbon, “the right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union” (European Union, 2010a). According to the Geneva Convention, a refugee is a person who is subject to “a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” (UN Refugee Agency, 2010). The Treaty on the European Union adds that the European Union is supposed to develop a common asylum policy, including common reception conditions (European Union, 2010b). There are various documents working towards the establishment of a Common European Asylum Policy. The most important document with regards to living conditions is the Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. Generally, it is important to notice that these provisions are supposed to be minimum standards, therefore, states are always allowed to introduce measures that are more favourable for the asylum seeker.

As mentioned in the chapter on methodology, living conditions include four items, namely accommodation, health service, education and work and treatment by officials. With regard to accommodation, the directive mentions obligations concerning the residence area as well as the housing conditions themselves. Generally, Member States are allowed to decide on the residence of an asylum applicant based on reasons of public interest. Further, it is stated that asylum seekers should be allowed to move freely within the whole territory of the Member State or within a territory assigned to them. This territory is supposed to provide a sphere of private life as well as sufficient benefits. However, for legal reasons or for reasons of public order, it can be allowed to confine an asylum seeker to a particular place. If given permission by the official organ responsible, asylum seekers may temporarily leave this confined territory. When looking at provision dealing with the housing conditions, it is stated that asylum seekers are supposed to be placed at accommodation centres or private flats or other premises. All of these have to provide an adequate standard of living.

Further demands concerning housing are the possibility to protect family life as well as the possibility to communicate with relatives, lawyers, etc. Family in this regard means a married couple or a couple in a stable relationship including their minor (younger than eighteen) children. Legal support as well as advice by non-governmental organisation are supposed to be granted access to the premises. Concerning staff working at reception centres, the directive only allows trained personnel, who are able to keep confidentiality. It is important to say that under special circumstances, namely if

the Member State is not able to provide, for example, housing as specified in the document, there are exceptions to these rules, however, basic needs still have to be fulfilled. Generally, asylum seekers are to be given means to meet their subsistence. This can be done by giving money or by providing vouchers, etc. (Council of the European Union, 2003).

Concerning health care, there are also provisions within this document. After arrival, Member State may require medical screening for all applicants. Furthermore, it is stated that the government has to make sure that the standard of living is adequate for the health of the asylum seekers. If someone needs health treatment, this should be provided in cases of emergency. However, only the essential treatment has to be supplied. There are exceptions for asylum applicants with special needs, further, the Member States are obliged to take into account that more health care is necessary for vulnerable persons, such as pregnant women or victims of torture, rape, etc. On top of that, there are special requirements for children, who have been subject to torture, rape, neglect or who have suffered traumas otherwise. It is stated that special health care and counseling shall be offered (Council of the European Union, 2003).

Another aspect seen in relation to living conditions is employment and education possibilities. The European Union also gives provisions in this regard within the context of the Directive on the minimum standard of reception conditions (Council Directive 2003/9/EC). Firstly, it deals with education of children. Generally, children are supposed to be granted the opportunity to attend school under similar conditions as regular citizens. However, the education can also happen within the reception centres. This has to start not later than three months after the asylum application. This is also true for the possibility to attend secondary education, mostly relevant when children reach the age where schooling is not compulsory any more according to national law. When looking at vocational training, Member States may provide this possibility even if the asylum seeker is otherwise not allowed to work, but it is not compulsory. Concerning the general possibility to work in the host country, states are allowed to specify a certain time span after the arrival in which the asylum applicant does not have the permission to work, this time must however not exceed one year. After this time, asylum seekers are allowed to seek access to the labour market, however, Member States are permitted to give priority over a certain job to their own citizens or citizens of the European Union (Council of the European Union, 2003).

The last point with regard to living conditions of asylum seekers deals with the treatment of the applicants by national authorities. The European Union document states articles that deal with this topic. There are a number of deadlines the authorities have to comply with to ensure that applicants know about their obligations, etc. Generally, three days after the application has been lodged, Member

States are obliged to hand over a document stating the person's status as asylum applicant. Further, after not more than fifteen days the authorities have to inform the asylum seekers about the benefits they are able to receive as well as about their obligations. Applicants shall also be provided with information on legal assistance as well as supporting organisations. These information should be given in a language the asylum seeker understands, as far as this is possible for the Member State. Concerning the withdrawal of reception benefits, the nations are allowed to do so in specific cases, such as leaving the territory without permission, neglecting reporting duties or not providing relevant information (Council of the European Union, 2003).

ii. National Level

As already mentioned in the previous part, the legislation is in form of a directive. A directive has to be complied by the Member States to its end, which means that the result has to fulfill the goals mentioned in the directive, but the measures to reach that goal are open to the Member States (Craig & de Burca, 2008). This means that achieving these results is also binding upon Germany. However, German also has policies dealing with the reception conditions of asylum applicants. Generally, the right to apply for asylum, although already laid down for Germany by its membership in the European Union and signature of the Geneva Convention, is declared in the Basic Constitutional Law of the Federal Republic of Germany. More precisely, Article 16a provides that people, who are politically persecuted, have the right to seek asylum. However, Article 16a(2), restricts this by stating that if someone has set foot in a safe third country before entering the territory of the German Federal Republic, he or she is obliged to apply for asylum in this country and not in Germany (Bundesrepublik Deutschland, 1949). Provisions concerning the living conditions of asylum seekers are laid down in the *Asylbewerberleistungsgesetz* (law on benefits for asylum seekers) from 1993 as well as partly in the *Asylverfahrensgesetz* (law on the asylum process) from 1992. It becomes obvious that regulations about the implementation of the policies concerning asylum are often regarded as concern of the sixteen federal states of the Federal Republic of Germany. Generally, the asylum seekers are distributed among the *Länder* using a special method, which is based on the wealth and population figure of the federal states. In 2011, it was calculated that North Rhine-Westphalia is supposed to host the highest number of asylum seekers, namely about 21 %. Therefore, federal regulations in this *Land* affect a high number of asylum seekers and it can serve as an example (Bundesamt für Migration und Flüchtlinge, 2011c).

When looking at housing conditions, the federal states have the responsibility to provide reception centres. After some time that must not exceed three months, asylum seekers are allowed to leave these first reception centres. Afterwards, asylum seekers are supposed to live in so-called

common housings for asylum seekers. Generally, the asylum seeker is not allowed to leave the district, where he is officially reported. Only for important reasons, he is allowed to temporarily leave after receiving the permission by the public authority responsible for him (Bundesministerium der Justiz, 1992). A number of federal states have eased this residence obligation, among them North Rhine-Westphalia. According to a public announcement in December 2010, the cabinet decided to relax the regulations and allow asylum seekers to temporarily travel in the whole territory of the *Land* without special permission (Ministerium für Inneres und Kommunales des Landes Nordrhein Westfalen, 2010). Concerning the reception centres and further legal obligations in this regard, the policy provides that the federal states are responsible (Bundesministerium der Justiz, 1992).

Asylum seekers are also supposed to receive certain benefits. Generally, these benefits are on a non-cash basis, however, the exact method is open to the federal states. According to the law on benefits for asylum applicants, basic needs concerning food, housing, heating, clothing, health and hygienic products as well as home appliances are to be provided. Clothing is to be given to the asylum seeker directly or by vouchers. Home appliances can be lent on a temporary basis. On top of these things, the law states that each person older than fifteen receives 40.80 € monthly for further expenses. Children younger than fifteen receive half the amount. These provisions apply in cases when asylum applicants live in the common homes. If they live outside these centres, they receive the price for housing and heating as well as 184.07 € monthly for food and other products in addition to the 40.80€. It can be paid directly or in the form of vouchers. These regulations apply for asylum seekers up to four years after their arrival. If this time is exceeded not by the applicants own fault, they receive higher amounts, more precisely amounts that are comparable to the social welfare benefits for German citizens (Bundeministerium der Justiz, 1993).

The law on the process of asylum applications as well as the law on benefits for asylum seekers also include provisions regarding to health and health services. Article 62 of the law on the process of the application provides that all asylum seekers living in first reception centres or later in common housings are obliged to allow a medical screening to test for infectious diseases, etc. The results of this screening are handed over to the relevant authorities (Bundesministerium der Justiz, 1992). Further, there are regulations on the general health care. If the asylum applicant suffers from acute pain or sickness doctor's appointments as well as necessary medication are paid for. The applicants also receive necessary immunisations as well as preventive medical examinations. The law also provides necessary medical and other help for applicants with special needs, such as unaccompanied minors, pregnant women or people, who have suffered from any kind of torture, rape or other forms of violence (Bundeministerium der Justiz, 1993).

When looking at regulations on work and education, it is stated that asylum applicants are generally allowed to work, however, there are some restrictions. Firstly, he or she is not allowed to work for a time span of one year after the arrival. After this time, he may apply for a permit at the Federal Employment Office (Bundesministerium der Justiz, 1992). After the permission has been given, the residence act applies. This law provides conditions under which migrants are allowed to work. It is important in this regard that asylum seekers are only allowed to work if no German citizen or citizen of the European Union also applies for a specific job (Bundesministerium der Justiz, 2004). Outside the regular labor market, the common homes are supposed to provide work for the asylum applicants, mainly to support maintenance of the building. For this, the applicant receives 1.05 € per hour (Bundesministerium der Justiz, 1993). The education for underage children is generally under the competences of the federal states. In North Rhine-Westphalia, children of asylum seekers or unaccompanied minors are, according to Article 34 of the law on schooling, obliged to attend school as soon as they apply for asylum (Ministerium für Inneres und Kommunales des Landes Nordrhein Westfalen, 2005).

Regulations concerning the process of applying for asylum are very detailed and extensive. Due to that, only some important articles will be mentioned, which precisely deal with the actual treatment of the asylum seeker by the official authorities. They are as well laid down in the law on the process of the asylum application from 1992. Generally, the Federal Office for Migration and Refugees decides if the asylum application is successful or not. It is in the responsibility of the asylum seeker to ensure that he receives all messages from this Federal Office or other authorities. Further, he is obliged to actively support the Federal Office in clarifying the circumstances of his asylum case. Therefore, he has to present all relevant documents. If he does not comply, the authorities are allowed to search the asylum seeker himself and his belongings. The Federal Office also has the permission to keep data on fingerprints, pictures and voice recordings if they are necessary for the identification of an applicant's home country, these data may also be used as evidence in cases of crime or danger prevention. Concerning possible language difficulties, the authorities are obliged to seek the help of a translator for the official hearing. During that initial hearing, the asylum applicant has to present his case. Information that is presented later on do not have to be considered in the process. Generally, the hearing is not public, but the presence of personnel of the state, the federal states or the United Nations is allowed to attend. In cases of a rejected asylum application, the document has to give reason for this decision. It is further allowed to file a suit against a rejected application within two weeks time (Bundesministerium der Justiz, 2005).

These are the most important regulations at European Union, state and federal state level concerning the living conditions of asylum seekers in Germany. They will be used as a basis for a comparison between the practice, which will be presented in the next part, and the legal requirements.

b. Practical Local Conditions

The second part of the analysis contains how the legal requirements are put into practice at a local level. Therefore, data gathered in an interview with an expert in the field of asylum will be presented. Further, data taken from reports on living conditions of asylum seekers in Germany by non-governmental organizations dealing with the protection of human rights will be used. The division will follow the conceptualisation by presenting information on housing, health care, work and education and finally treatment by officials.

i. Housing Conditions

This part on housing conditions includes information on the actual living conditions in the reception centres. Further, there will be information on conditions related to housing, such as the benefits the asylum seekers receive as well as the practical conditions with regard to the residence obligation.

As already mentioned when discussing the legal framework surrounding the topic of asylum seeking, the federal states or the regions are able to decide in how far asylum seekers have to live in reception centres and common housings or in private flats (Bundesministerium der Justiz, 1992). Generally, it can be said that asylum applicants are obliged to live in reception centres for up to three months after their asylum request has been lodged. Afterwards, most of them are obliged to live in common housings. These centres and houses are mostly former schools, hotels, barracks or similar buildings. A problematic issue in this regard is the bad condition of the buildings. Most of the time, they have been abandoned once they were not used any more. This leads to problems, since parts of the buildings are broken, etc. Further, many buildings have problems with insects or mold. This can lead to severe health problems, especially for children.

Generally, a family unit receives a room for itself, if an adult arrives alone, he is asked to share a room with other asylum seekers. The room available for the asylum seekers differs from centre to centre, but it is mostly about 20 qm² for four persons. However, some buildings only offer about 12 qm². Especially if the asylum seekers, who share a room do not know each other and have different cultural backgrounds this space is very limited and hardly offers any privacy. Further, there are only common bathrooms, which very often are not hygienic and this is also true for the common kitchens. Most centres do not offer any common rooms either. This is problematic, since, for example, children

are hardly able to do their homework properly within the small family rooms. There are also a number of rules, all the inhabitants have to follow. Examples are regulations on visits, such as certain visiting times or the obligation to report visitors to the reception, etc. (B. Naujok, personal communication, July 13th, 2011).

A second problematic issue concerning the reception centres is their location. These buildings are very often far away from any infrastructure, such as schools, supermarkets, etc. In addition, there is hardly any public transport that offers the possibility to reach city centre. This is problematic, since it complicates the possibility to buy food and other necessities or to generally interact with the German population. This leads to asylum seekers not being able to integrate into the German community in any way. Further, it is problematic for children. Firstly, they have a long way to go to their schools, secondly, there is hardly anything for them to do in the centres and due to the location it is impossible to attend any activities, such as youth groups of sports, for diversion (B. Naojok, personal communication, July 13th, 2011).

When looking at the benefits the asylum applicant receives based on the *Asylbewerberleistungsgesetz*, there are some practical problems related to it. Generally, the rule is that benefits should be given on a non-cash basis. This leads to the fact that asylum applicants living in the reception centres or common housings mostly receive vouchers to buy groceries and other necessary items. Mostly, the amount in vouchers the asylum seekers receive is not enough to cook healthy meals. This becomes even more problematic, since the vouchers are mostly for supermarkets that are quite expensive when compared to other grocery shops, such as discounters. Therefore, the amount of food the asylum seekers receive is less than it could be for the same amount of money (B. Naujok, personal communication, July 13th, 2011). Further, some federal states distribute vouchers, whose amount is lower than the amount the asylum seekers would receive in cash if he did not live in common housings (Amnesty International, 2010). The same problem occurs when looking at benefits in form of clothing. Mostly, asylum seekers receive second-hand clothes, provided, for example, by the Red Cross. However, these clothes are hardly enough, especially for the winter. On top of that, the food vouchers and clothing easily lead to discrimination (B. Naujok, personal communication, July 13th, 2011). On top of the non-cash benefits, asylum seekers receive 40.90€ monthly for all further expenses. These include communication, public transport, legal support, etc. It is practically not possible to pay for these items with this amount of money (Amnesty International, 2010).

ii. Health Care

The second item related to living conditions is health care. Generally, it can be said that health care is legally and also practically provided, but only to a limited extent. However, the asylum seekers do not have health insurance comparable with regular citizens. In case of sickness, there is a certain procedure the applicants have to follow to be able to get an appointment with a doctor. Firstly, they have to go to the Social Welfare Office to receive a document that states that they are allowed to see a doctor and that the expenses will be taken care of. This process can take up to three days. Further, there are some conditions concerning providing assistance in cases of sickness. The German state only provides health support in cases of acute sickness or pain. If the problem is of a chronic nature, there is no assistance. This is in so far problematic, since many asylum seekers come from regions, where, for example, HIV/ Aids is very common. If an asylum applicant suffers from HIV, he will not get any treatment until the actual sickness has broken out. Further, some asylum seekers suffer from psychological trauma, depression and similar problems due to events that happened before their arrival in Germany. Since these problems are considered as being of a chronic nature, there will be no health support (B. Naujok, personal communication, July 13th, 2011).

Another aspect is the possibility to live a healthy life. Generally, this is complicated due to reasons already mentioned in the first part dealing with housing conditions. The buildings are partly not very hygienic, sometimes there is a problem with mold (B. Naujok, personal communication July 13th, 2011). Further, the amount of money the asylum seekers receive for food is not enough to always live in a healthy way (Amnesty International, 2010). The possibility to do any sport is also very limited. Concerning the mental health of the asylum seekers, the lack of diversion from the problems and worries related with the application lead to further depression, etc. (B. Naujok, personal communication, July 13th, 2011).

iii. Education and Work

As already mentioned in the legal obligations concerning work, asylum seekers are not allowed to work in the first year after their application. However, this is not seen as very problematic, since during the first months, the asylum seekers hardly have time and the wish to work. This is, on the one hand, due to the many obligations they have to fulfill, on the other hand due to the time asylum seekers need to adjust to their new situation. After this time span, they are allowed to work if they have the permission of the relevant authority, if the working conditions in the possible future job have an acceptable standard and if no other German or EU citizen applies for that specific job. This is problematic, because the last condition is almost impossible to fulfill (B. Naujok, personal communication, July 13th, 2011). Further, the asylum seekers are restricted by the obligation not to leave a certain district. Therefore, it can be said that participating in the labor market is practically unattainable for asylum seekers (Amnesty International, 2010).

Concerning the possibility for adults to educate themselves, mainly to learn German, the chances are limited. Generally, asylum seekers are not invited to attend integration courses, including language courses, which are obligatory for all other migrants in Germany. Therefore, if the asylum seeker wishes to learn German, he or she has the possibility to attend regular German courses as offered by a number of organisations. However, these courses are normally not free of charge and due to the limited amount of money the asylum seekers receive, it is hardly possible for them to attend these courses. Because of that, once an asylum request has been approved, hardly any former asylum applicants know the German language, which makes integration into a community even harder (B. Naujok, personal communication, July 13th, 2011).

The last aspect with regard to education is the education of minors, who apply for asylum themselves or whose family applies for asylum. Generally, underage children are legally obliged to attend a school and this is also true if their asylum status has not been decided on. However, there are some problems related to that. Firstly, children of asylum seekers normally do not speak German at the time of their arrival. Therefore, they mostly attend special classes for migrants at the German *Hauptschule*. This school form offers basic general education aimed at preparing pupils for vocational training (Lohmar & Eckhardt, 2008). This leads to the fact that all prior education the children received is ignored. In some cases, a further problem for underage asylum seekers at school is discrimination. Because of their status as an asylum seekers as well as their social status, they are often victims of discrimination and bullying. This heavily influences the children's well-being and performance at school. Another factor influencing this is the status of being an asylum seeker itself. Due to the unknown outcome of the application, children feel that they do not have to do well in school, since they may have to leave Germany anyway and go back to their country of origin, where the results attained in a German school do not count (B. Naujok, personal communication, July 13th, 2011).

iv. Treatment by Officials

Generally, the treatment of asylum seekers in Germany can be regarded as unwelcoming. One problem related to living conditions and treatment by the German state is the obligation for the asylum seeker not to leave a specific district. Related to that is the regulation that, once they arrive in Germany, asylum applicants are distributed up among the federal districts and within them among the cities and communities. Normally, asylum seekers from different cultural backgrounds also have different opinions concerning the family unit. In Germany, the family unit only includes married or otherwise fixed couples with their children. In other cultures, the family unit includes more generations and is generally considered to be wider. Once asylum seekers arrive in Germany, they expect to be together

with relatives, who already live in Germany or are also asylum applicants. However, the allocation within Germany and the obligation not to leave the district make this almost impossible (B. Naujok, personal communication, July 13th, 2011). This strongly affects people's well-being and even mental health, since they feel left alone and isolated (Amnesty International, 2010)

Another problem is the treatment by officials during the initial hearing in the Federal Office for Migration and Refugees and during other meetings afterwards. Generally, the atmosphere during the first initial hearing is unwelcoming and repellent. Further, there is a lot of pressure on the applicants due to the fact that information that is not presented during the hearing but afterwards does not have to be taken into consideration. While the asylum request is considered, the applicants do not receive any information about the progress, which means that they await the decision every day. This can be increasingly stressful the more time the application takes, especially since in some cases the process can take up to ten years. In addition to that, there may be problems with the documents and letters the asylum seekers receive from the public offices. In some reception centres and common housings the mail service does not work properly. This leads to mail being delayed or not received by the addressee at all. Since some letters include information on deadlines, the applicants miss these, which delays their request or makes it impossible at all. Another problem is related to the language. Since the official language in Germany is German only, all correspondence is in German as well. Hardly any asylum seekers speak German properly, so it is not possible for them to understand the documents and they are dependent on help (B. Naujok, personal communication, July 13th, 2011).

c. Comparison with Human Rights Provisions

This part of the analysis examines in how far the legal requirements and their practical implementation in local conditions is compatible with cosmopolitan ideals and more precisely with human rights provisions. Generally, Germany is subject to a number of international treaties dealing with human rights. However, since the two following conventions are binding, the Charter of Fundamental Rights of the European Union and the human rights provisions in the German Constitution will form the basis of this comparison. The Charter of Fundamental Rights of the European Union from 2007 has been binding for Member States of the EU since the Lisbon Treaty, which came into force in December 2009 (European Union, 2010a). The human rights provisions for Germany are laid down in Articles 1 to 19 in the German Constitution from 1949 (Bundesrepublik Deutschland, 1949). Generally, both human rights documents include the references to cosmopolitanism as described in the theoretical framework. The Charter of Fundamental Rights of the European Union states that "Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law" (European Union, 2010a). The German Constitution lays down statements that go into the same direction by saying that Germany is "conscious of their

responsibility before God and man [and] inspired by the determination to promote world peace” (Bundesrepublik Deutschland, 1949). Further, Article 1(2) states “The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world” (Bundesrepublik Deutschland, 1949). This shows that Germany is committed to cosmopolitan ideals as well as human rights. In the following, it will be analysed in how far the legal requirements and the practical conditions are compatible with these ideals.

The first human rights article that is violated by the asylum practices and legal requirements is stated in both documents in Article 1, namely “Human dignity is inviolable. It must be respected and protected” (European Union, 2010a). The German Constitution adds that it must be secured by all public authority (Bundesrepublik Deutschland, 2010c). These human rights include the state’s obligation to support people who are not able to live a life above the existential minimum. The existential minimum is defined by the German State and adjusted every two years. The so-called welfare support is the lowest social support in Germany and therefore considered as existential minimum to live a life in dignity. Article 23(2) however states that asylum seekers do not receive this support (Bundesministerium der Justiz, 2003). They obtain an amount of money that is about a third or half as much as a German citizen gets to secure his existence. In 2011, for example, the existential minimum was calculated to amount to 364.00€ per month for an adult (Presse- und Informationsamt der Bundesregierung, 2011). As already mentioned, an adult asylum seeker not living in common housing gets 224.2687€ monthly for the first four years after arrival, which is almost only half of the amount a German citizen obtains to secure his dignified living standard. Further, the amount asylum seekers receive has not been changed since the establishment of the law in 1993, whereas the welfare support is adjusted to income and demand of the general public (Bundesministerium der Justiz, 2003). Therefore, this regulation can be seen as being in breach of Article 1 of both relevant documents, especially in breach of the German constitution, which states that securing human dignity is task of the public authority.

The right to human dignity can also be considered as neglected when turning to the isolation most asylum seekers live in. When taking into account the practices concerning asylum applicants it becomes obvious that the German state does not wish to integrate asylum seekers into the community. Proof for that is the location of the reception centres and common housings, mostly far away from cities. Further, free German language courses are not provided and knowledge of the language is an important condition for integration. Another factor contributing to the isolation of asylum seekers is the low amount of money they receive that should also be used to pay for communication and public transport. However, since the money is hardly enough for groceries and other necessities, there is no

possibility to pay for telephone, etc. This is also problematic with regard to legal support and support by non-governmental organisation the asylum seekers need.

The housing conditions within the reception centres and common housing also constitute a breach of Article 1 of the German constitution on the one hand, but also Article 3 of the Charter on Fundamental Rights of the European Union dealing with the physical and mental integrity on the other hand (European Union, 2010a). Generally, the housing conditions are below human dignity due to the limited space available as well as the hygienic conditions. Further, the conditions lead to people getting physically ill, for example because of the mentioned lack of hygiene, mold or insects. However, not only the physical integrity is threatened, the mental integrity is also at risk due to the isolation and other problematic conditions as mentioned in the previous sections. Possible reactions on these conditions are depression and similar problems.

The second Article laid down in the German constitution states the right to free development of personality (Bundesrepublik Deutschland, 1949). This right is severely broken by the policy and practices concerning asylum seekers due to the fact that asylum seekers are not provided with the means to unfold their personality, for example by being able to receive education, etc. The financial support they receive is hardly enough to be able to meet daily expenses. Furthermore, asylum seekers are limited in their personal freedom of action, since they are not allowed to live or even go wherever they wish. Further, the private sphere of the asylum seeker is restricted through the housing conditions as laid out in the previous part. This human right is also separately stated in the Charter on Fundamental Rights of the European Union in Article 7, respect for private and family life (European Union, 2010a).

Article 3 of the German constitution deals with equality before the law (Bundesrepublik Deutschland, 1949). In the Charter on Fundamental Rights on the European Union, Article 20 deals with this matter (European Union, 2010a). Equality before the law also includes equality before the public authorities and the civil servants, since their task is to represent the legal framework of the Federal Republic of Germany at a local level. However, with regard to asylum applicants this is not always respected. Mostly, asylum seekers are treated in a repelling and unwelcoming way during the process of application and their matters are partly treated by the civil servants in an arbitrary way. This is not the case for other German citizens and therefore it obviously does not comply with equality before the public authorities. It can further be argued that this practice is against Article 21 of the Charter on Fundamental Rights of the European Union, dealing with the prohibition of discrimination (European Union, 2010a).

d. Possible Reasons for Non-Compliance

Generally, it becomes obvious that the legal requirements and practices concerning living conditions of asylum seekers contradict human rights provisions at EU as well as national level. This section will shortly deal with possible reasons for the non-compliance with human rights. Generally, it can be suspected that in this case national interests are a reason. As already mentioned in the theoretical framework, national interests often contradict cosmopolitan values.

Financial issues can be considered as being a national interest and possible reason for breaking human rights norms. Generally, the German state saves money by not providing the same amount for asylum seekers as they provide for German citizens. However, the number of asylum seekers has decreased when considering the last years after a peak in 1993. During that time almost 440,000 people applied for asylum in the Federal Republic of Germany, whereas over the last two years the number of applications varied between 20,000 and 40,000 (Bundesamt für Migration und Flüchtlinge, 2009). The spending on asylum seekers has therefore decreased considerably. Further, the rates have not been adjusted since the establishment of the law on benefits for asylum seekers in 1993, so that an increase in spending is not visible (Bundesamt der Justiz, 1993). Therefore, the financial aspect may be a reason of national interest, however, there are likely other causes as well.

Another reason why the human rights obligations are broken in this case is the lack of lobby influencing policy making in favor of asylum seekers. Therefore, politicians do not see the need to change the regulations as there is no force from voters and the general public. Although there are a number of organisations representing asylum applicants, most of them are not as important as other lobby group groups. An argument in favour of this assumption is the fact that the policy on benefits was decided on in 1993, during a time in which a great number of asylum applicants entered Germany. Since then, there has not been a lot of change to it. This shows the lack of interest by the politicians and the lack of lobbying to support asylum seekers. Lack of interest can be considered as a national interest since the needs of actual citizens is placed before the needs of foreigners.

To sum up, the lack of interest as well as the financial aspect can be seen as reasons for the non-compliance of human rights. Both of these causes can be based on national interests, which therefore are partly contradictory to cosmopolitanism and human rights. However, it becomes obvious that there are most likely also other important reasons influencing the behaviour of states towards asylum seekers, so that national interests may not be the only explanation for the violation of human rights in this regard.

e. Conclusion

This chapter provided the analytical part of the thesis by answering the research question and its sub-questions. Generally, the descriptive questions of what the legal regulations and the practical implementation concerning living conditions of asylum seekers are, are answered in the first two sections. To sum up, it can be said that policies and practices in this regard do not aim at integration of the asylum seekers in the communities. Therefore, it can be concluded that the living conditions are not supporting the asylum seekers to an extent that could be expected from a country that commits itself to cosmopolitan values. It can even be said that they are in breach of human rights obligations at the national as well as at the European Union level. More precisely, the right to live a life in dignity is violated as stated in Article 1 of both documents. Possible reasons for this break are of national interest, namely financial expenses as well as the lack of lobby and interest to change the situation.

V. Conclusion

To conclude, this chapter will sum up the main findings of this study as well as propose policy ideas that could improve the situation. To sum up, it can be said that the expected outcome has been proven true with regard to this case. It was predicted that states would call themselves respecting cosmopolitan values, most importantly human rights, but the local legal framework and especially the practice would contradict this. When considering the case presented here, namely asylum applicants in Germany, the legal framework and its practical realisation are to some extent against human rights norms. Generally, it becomes obvious that Germany does not wish to integrate and include asylum applicants whose cases has not been decided on yet, the German authorities are rather keen on keeping them apart from local communities. When taking human rights into account more precisely, especially, human dignity is not respected when considering the housing conditions asylum seekers have to live in. Also, the amount of money and non-cash benefits the asylum applicants receive are not enough to be able to live a life in health and human dignity. Further, they are not treated in a dignified and equal way by the public authorities when compared to German citizens. Therefore, it can be concluded that the hypothesis is true. Reasons for this break are presumably national interests, in this case financial expenses as well as a lack of interest in the topic in general.

a. Practical Implications for National and EU Policies

There are a number policy changes that could improve the situation of asylum seekers in Germany and enable them to live a life as expected considering human rights norms. Generally, these proposals aim

mostly at realisation at a national or federal level, since these levels are closest to the asylum seekers and mostly responsible for the implementation. The most important proposals include the abolishment of the residence obligation, the increase of benefits on a cash basis as well as the provision of private housing for asylum seekers. However, a first thing to change would be the attitude towards asylum seekers. Generally, they should be welcomed and treated in a human way. Further, it is important to acknowledge the necessity of integration. Since the outcome of the asylum application is still open, asylum seekers should have the possibility to integrate by learning German and participating in public life. This makes a strong lobby in favour of the asylum seekers necessary.

As already mentioned, asylum seekers are obliged not to leave a certain district without permission by the relevant authorities. This is on the one hand in breach of human rights, since the personal freedom of action is limited. Additionally, it keeps asylum applicants from seeking help from non-governmental organisations and similar institutions. It also leads to the feeling of isolation, since asylum seekers sometimes already have relatives in Germany, but are not able to see them and seek support. Some federal states already relaxed the extent of this regulation, however, to be able to meet human rights standards, it should be abolished in total, so that asylum seekers are allowed to temporarily leave the district without prior permission. This can be considered a step at a national or federal state level, since this regulation is only apparent in Germany. Since this does not have any financial consequences for the German state and could even ease administrative matters due to the fact that no agency has to deal with the permissions any more, the possible to change the law on the asylum process is given.

A second proposal deals with the benefits the asylum seekers receive from the German state. Although already partly abolished in some federal states, the principle of non-cash benefits, especially for food and other necessities leads to discrimination. Therefore, this policy should be changed to allow cash benefits in most areas. Further, the amount needs to be adjusted on a regular basis to be equivalent to the normal social welfare benefit for German citizens to represent income changes and changes due to inflation, etc. Generally, the amount asylum seekers receive should support them to live a life in human dignity. As the Federal Republic of Germany defines the social welfare for German citizens as existential minimum, this should also apply for asylum applicants. Since this would lead to further expenses on the side of the German state, the change should also be within German competences.

Another change needs to be made with regard to the housing conditions. As mentioned in the previous chapter, the housing conditions in the reception centres and common housings are complicated. There is not enough room and therefore no privacy. Further, the hygienic conditions are

not acceptable. Another problem is the location, which is often far away from cities. A solution that is already applied in a number of federal states is to provide private housings for families and single asylum seekers. This would support the asylum seekers by offering them privacy and better hygienic conditions. Further, the locations would support integration of asylum seekers into communities. Generally, this competence lies within the federal states. These are, however, only a few proposals. Generally, Germany needs to rethink its opinion on asylum seekers and act according to its proclamation of a country promoting cosmopolitan values.

VI. References

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VIII. Appendix

a. Interview Questions

Living Conditions of Asylum Seekers in Germany

1. How would you describe the situation of an asylum seeker in Germany in general?
2. What are they provided by the German state with regards to money, coupons, etc.?
3. Accommodation
 - a. In what kind of accommodation are asylum seekers located?
 - b. In how far can asylum seekers choose where to live?
 - c. How much room do they have?
 - d. How is the hygienic situation?
 - e. Where are these accommodations located?
4. Health Care
 - a. In how far do asylum seekers have the possibility to visit a doctor?
 - b. In how far is medication provided?
 - c. In how far do they have the possibility to live healthy (e.g. food, sport, etc.)?
5. Access to Education/ Work
 - a. In how far are asylum seekers allowed to work to meet expenses? Are they partly engaged in illegal work?
 - b. In how far do adults have the possibility to be educated, e.g. to learn a job, etc.?
 - c. In how far do adults have the possibility to educate themselves, e.g. to learn German?
 - d. In how far are children allowed to attend school?
6. Treatment by Officials
 - a. How are they generally treated by German officials?
 - b. In how far do they have the possibility to get information about the progress of their request?
 - c. In how far do they receive the documents, etc. in their own language?

Compliance with Human Rights

1. Would you judge the practical living conditions of asylum seekers in compliance with human rights norms?
2. What aspects would you consider being in breach of human rights?

3. What would you consider being the reason for this breach?