



Observations on Simplifying Legislation and Administration: Lessons Learned from the Refugee Crisis for the Capacity to Act and the Sustainability of the State and Public Administration

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I. Introduction

The **refugee crisis came as a stress test at an unexpected time**, challenging the state and public administration in many ways, sometimes to the point of overtaxing them. It was only through great effort and thanks to the extraordinary commitment of administrative staff and volunteers that the crisis could be prevented from causing major damage. Since its start, the state and public administration have implemented a number of measures to improve the situation, such as an upgrade of the Central Register of Foreigners (Ausländerzentralregister - AZR), the introduction of a proof of arrival and the pooling of competences in the so-called arrival centres. Nevertheless, the crisis clearly exposed the flaws and structural deficits of administrative structures in Germany. Despite all the steps that have been taken, structural reforms are noticeable only in some cases. There is a **danger of reverting to the old patterns of thinking and behaving and thus missing the opportunity for modernisation**.

On the one hand, drawing lessons from the crisis can help to improve asylum and refugee management. On the other hand, it is possible to derive general recommendations concerning the effectiveness, efficiency and agility of public administration as a whole. The aim of this publication is to **summarise observations** made by the NKR as a result of its work over a number of years, which have gained a new urgency due to new impressions from the refugee crisis. These observations resulted from the examination of a large number of legislative amendments (“asylum packages”), site visits in reception centres, talks with professionals at all levels, evaluations of studies and surveys, as well as exchanges with various experts and scientists. In accordance with the NKR’s mandate to advise the Federal Government in its efforts to reduce bureaucratic obstacles, consider alternative solutions and address issues regarding the simplification of legislation and administration, this paper aims to **provide some recommendations for action - but above all to stimulate reflection**. Since the NKR has already elaborately commented on the **digitalisation** of the state and public administration elsewhere (NKR Annual Reports 2017, 2016, 2015), it will not be addressed in this publication.

While preparing the paper at hand, the NKR was fully aware that **sharpened or summarised descriptions sometimes fail to do justice to the complex reality**. What is more, the focus is mostly on the Federal level. It has to be acknowledged, for instance, that at the level of the states and municipalities, the required transformation process was initiated quite some time ago. At the same time, local authorities have to deal much more with bureaucratic and legislative constraints in

their daily work than Federal and state ministries. Decisions by public authorities and administrative acts must be formally correct and comply with the rule of law at all times in order to be unappealable. Any further discussions on this topic must take into account this **important differentiation between types of authorities and administrative levels.**

II. Conclusions for the 19th Legislative Term

Most of the problems discussed in this paper already existed well before the refugee crisis, and corresponding reforms were proposed repeatedly. But it was not until the refugee crisis in its drastic manifestation that it became clear just how far-reaching the consequences of existing deficiencies can be. With an eye to the future, the **crisis can also be seen as an opportunity to implement reforms**. The goal of such reforms must be to improve the **capacity to act and the efficiency of the public sector** to such a degree that new, future challenges - e.g. digitalisation, increasing interconnectivity of countries and people as well as demographic change - can be mastered.

The NKR firmly believes that many of the questions raised and recommendations for action made in this paper should be subjected to an in-depth analysis and open political discussion. There are also recommendations which are so concrete that their speedy implementation is only logical.

As a conclusion for the 19th legislative term, the following three proposals are therefore put forward:

1) **Swift implementation of the recommendations regarding the improvement of asylum and refugee management**

The recommendations for action put forward in this paper (see Chapter III.1 for detailed comments) are not at all new. That is why it is all the more important to finally **tackle issues that have been put on hold**:

- Further improve the efficiency and reliability of the Central Register of Foreigners
- Examine alternatives to a transfer of jurisdiction and possibilities to simplify refugee support
- Reconsider the distribution of responsibilities and ease the burden on the competent authorities
- Speed up labour market integration and make the recognition of foreign professional qualifications easier
- Consolidate asylum law and the law on foreigners and merge them with migration law

2) **Implementation of an initiative to modernise public administration**

Some of the recommendations for action put forward in this paper can be approached rapidly. This offers the chance to quickly achieve tangible results and prepare the ground for more fundamental issues and steps.

In this context, an **initiative to modernise public administration** is recommended - if possible, in cooperation with the Federal states and municipalities. The purpose of this initiative is to update the structures and core processes of German public authorities. **Modernisation of the administration and digitalisation are in fact two sides of the same coin**. In the opinion of the NKR, the obvious thing to do would be to establish this task in the exact organisational area where the Chief Digital Officer (CDO) or a similar function will be based. The initiative is to be supported and supervised by a council of experts as specified below.

The main focuses of the initiative should include the following:

- Test the ability of authorities to withstand crises and their capacity to act - conduct a performance audit of relevant Federal authorities
- User orientation as chief objective - design administrative processes with citizens and enterprises in mind
- Strengthen federal competition - take performance comparisons between Federal states seriously
- Increase accountability for results - use agreements on objectives to exercise a greater degree of control

3) Establishment of a council of experts on modern administration

The general issues of administrative modernisation addressed by this paper can only be dealt with in a step-by-step approach that includes scientific and practical expertise. So far, the modernisation of the public sector has not yet been represented sufficiently as a topic on the public agenda; it has not been demanded resolutely and persistently enough. The **establishment of an independent, high-level council of experts** to advise the Federal Government in its modernisation efforts is therefore recommended.

This council should have two tasks: It should serve as a generator of ideas in dealing with the policy issues raised in this paper. At the same time, it should supervise and support the resulting modernisation efforts of the Federal Government in a critical and permanent manner. As to the number of experts and staff in the associated secretariat, there are some good examples to follow, e.g. the German Council of Economic Experts. In order to be able to get concrete measures off the ground before the end of the 19th legislative term, the council of experts should propose specific measures by mid-2019 at the latest.

The main efforts of the council of experts should include the following core topics (for more details, please see Chapter III.3):

- Rethink law-making - first define the processes, then establish the paragraphs
- Form follows function - critically examine established competences and responsibilities
- Management of extraordinary crises - more flexibility of the Federal system
- Enable the Federal Government to exert better control - measure and monitor strategy implementation
- Revive administrative culture - diversify personnel and lead with a focus on results
- Revise federal revenue equalisation - (re-)examine the allocation of funds

III. Specific Recommendations

1) Proposals for consolidating asylum and refugee management

The measures initiated so far to streamline asylum and refugee management were a necessary first step towards its stabilisation. Further action is required, and recommendations for action from both science and practice are available. It is particularly important in this context to review the distribution of tasks in Germany in order to determine which level can accomplish which task in refugee management most effectively. Now that the immediate symptoms of the crisis have subsided, the focus should be placed more strongly on consolidating asylum and refugee management in conjunction with the general law concerning aliens and their right of residence and to organise it in such a way as to render it crisis-proof. After all, crises must be reckoned with in the future as well.

a. Further development of the Central Register of Foreigners

The Central Register of Foreigners (Ausländerzentralregister - AZR) is the central steering, enforcement and information tool for nationwide asylum and refugee management. Over the past two years, some noticeable improvements have been achieved (NKR 2015a). These improvements are not sufficient, however. **Two years after the start of the crisis, the political framework for the AZR still features conditions and restrictions that significantly constrain an effective and efficient use of the AZR** (NKR 2017a).

In more concrete terms: At present, there are no more than a few statistical data clusters available that are basically isolated from each other - comprehensive migration and integration statistics are still far from being a reality. Holistic considerations regarding the current status of the procedure and integration steps taken by a foreigner (e.g. time elapsed between entry into the country to completion of an integration course) are impossible to date, even though all necessary data are available - in different systems. The various databases must therefore be interlinked by means of a common classification feature (e.g. AZR number). Consequently, the AZR must be further developed to provide comprehensive documentation on the status of the procedure and the integration steps taken by a foreigner, and it must be accessible to all relevant authorities (and not just to individual, specially authorised staff, as has been the case up to now) for their respective areas of responsibility in an automated procedure. Moreover, additional data fields must be included in the AZR, and data quality must be enhanced by way of a systematic search for duplicate entries and the consistent use of biometric identifiers with new or existing data sets (Bogumil et al. 2017: 82). **Urgent action in the short term is still required with regard to the AZR!**

b. Focus on bureaucratic burdens of refugee support – critically examine transfer of jurisdiction and healthcare

Refugees and asylum seekers are initially supported on the basis of the Act on Benefits for Asylum Seekers (Asylbewerberleistungsgesetz - AsylbLG) and, as the case may be, in accordance with Social Code (Sozialgesetzbuch - SGB) - Book II/XII in the further course of the

procedure. The AsylbLG stipulates that benefits in kind should be granted rather than money, especially in the case of accommodation in reception facilities. The political objective behind this is to avoid migration stimuli wherever possible. A transfer of jurisdiction from the AsylbLG to the SGB inevitably entails a considerable workload for the authority in charge.

The medical care provided to refugees and asylum seekers on the basis of a certificate of entitlement can be regarded as an expression of the principle of benefits in kind. Processing via statutory health insurance funds with the aid of a personal healthcare card may be a more cost-effective alternative to the individual, case-based assessment and billing by local welfare offices. The transfer of jurisdiction from the AsylbLG to the SGB as well as medical support should be subjected to scrutiny, and it should be **examined whether it is possible to achieve the political objective of the AsylbLG with less effort.**

c. Reconsider the distribution of responsibilities - ease the burden on the competent authorities

The law on foreigners is highly complex, and the tasks to be accomplished are extremely diverse and demanding. **It should therefore be examined how the burden on local authorities can be eased** and specific tasks can be shifted to other agencies and levels. As an example, the repatriation and deportation of persons obliged to leave the country is a very complex and time-consuming process that is contingent on a number of factors and conditions. Further efforts should be undertaken to pool certain sub-tasks (such as obtaining replacement ID documents or carrying out the actual deportation) elsewhere (Bogumil et al. 2017: 85; Robert Bosch Stiftung 2016: 178; NKR 2015b).

Moreover, the **multi-stage procedure for initial and subsequent lodging**, which in some instances reaches across all administrative levels, **could be simplified.** Coupled with the acceleration of asylum procedures, the goal should be to clarify the status of the person concerned while still in the initial reception facility and to allocate only recognised refugees to the communities. In return, the communities should be supported in matters of integration. In this context, it should be examined how the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge - BAMF) can strategically develop its steering and service-provider function in such a way as to relieve and support the communities.

d. Speed up labour market integration - make recognition of professional qualifications easier

Irrespective of the residence status, integration is facilitated by a job that provides a livelihood and which should suit the individual's skills and abilities. At the same time, the **system for the recognition of professional qualifications** is highly complex and heterogeneous. It should therefore be **simplified and consolidated** (Bogumil et al. 2017: 83f.). The same can be said about the vast number of existing integration and language acquisition programmes, the sheer variety of which is hard to grasp and even harder to manage (Bogumil et al. 2017: 74, 79; Burkert/Dercks 2017: 12; Erler/Gottstein 2017: 15).

e. Consolidate asylum law and the law on foreigners

Apart from a number of exclusive procedures for managers and skilled workers, there is currently no such thing as a right of immigration for people from non-EU countries. The Geneva Convention makes provisions for asylum only for refugees from war zones and persons persecuted for political reasons. This, however, is not sufficient to do justice to all groups of persons affected and ensure effective and efficient administrative action.

What is more, the legal regulations governing asylum, foreigners and residence as well as the further stipulations on the accommodation, care and integration of foreigners have in the course of time turned into a convoluted body of law, which has even been extended to include European provisions on the Dublin procedure and internal EU migration. In addition, there have been a large number of legislative amendments in the recent past. On the whole, it is rather difficult to keep track of this area of law (Bogumil et al. 2017: 15; NKR 2015c).

With a view to making the application of the law easier, it is recommended to consolidate the existing body of law and to further develop into to a Foreigners and Immigration Code. Within this framework, it would also make sense to shift competences, refine the AZR to serve as central core data system and settle those integration issues which are coming into greater focus.

2) Launch an initiative to modernise public administration - short-term improvements can be achieved

The lessons learned from the refugee crisis not only allow for conclusions to be drawn in terms of the short-term enhancement of asylum and refugee management. They also touch on more fundamental aspects of public administration. To achieve tangible results in the short term, the recommendations for action proposed below could be swiftly implemented in the framework of an **initiative to modernise public administration**. This initiative should focus on the following recommendations:

a. Test the ability of authorities to withstand crises and their capacity to act - conduct a performance audit of relevant Federal authorities

The refugee crisis has revealed that not all authorities were equally efficient. Problematic examples included the BAMF and the State Office for Health and Social Affairs in Berlin. As with the banking sector in the wake of the financial crisis, the ability to withstand crises of relevant administrative bodies should be subjected to a systematic review as a response to the refugee crisis. Since future crises may affect different areas, this review should go beyond asylum and refugee management to examine resilience to crises and flexibility in a more general context. An **audit of the competent Federal authorities and, as required, of selected state authorities** is therefore recommended.

This audit should **focus on the following three topics**:

- Effective administrative structures: Do existing structures allow effective work? Are the roles and responsibilities of staff and executive personnel clearly defined?
- Personnel strategy: Are technical and executive staff sufficiently equipped to accomplish the objectives of the authorities? Is there any strategic human resources planning that takes account of demographic developments?
- Level of digitalisation: What is the level of digitalisation of the organisation in question? Where can new digital services for staff and/or citizens be provided?

Along with the audit, **ten selected administrative processes should be improved in a targeted approach**. The objective should be to reduce the duration of the procedures by at least 50 per cent and to systematically facilitate their digitalisation. As regards pilot projects, the main processes to consider are those that affect many citizens or companies; relevant studies on the most important administrative services are available. In this context, coordination with the digitalisation programme of the IT Planning Council would be advisable.

b. User orientation as a new paradigm - design administrative processes with the citizen in mind

The focus of the operational efforts of the BAMF to shorten asylum procedures was on pooling the procedures at registration and reception facilities and tailoring them to the specific target groups. These efforts were supported by customised information services made available to refugees. The integration measures implemented by many municipalities are also organised from one source based on the principles of pooling and audience orientation.

These efforts to place greater focus on the target audience show just how important this change of perspective from a traditional supply to a demand-based approach is (Bogumil et al. 2017: 78f.; Bötzel/Steinbrück 2015: 29ff.). By shifting the focus of the administration from its own demands and requirements to the needs of citizens and enterprises, new procedures become possible that lower access barriers to users and enable them to navigate even complicated administrative procedures quickly, smoothly, intuitively and without errors.

In the end, this also benefits the administration itself. **This is in fact one of the reasons why the way in which public services are rendered and interfaces with citizens and enterprises are designed should be given more serious consideration and approached more systematically.** Services for citizens and enterprises should be designed in a user-friendly manner from the outset, and they should be developed and tested with the participation of the respective target audience. The expectations and needs of citizens and companies should always be at the centre of legislative action and enforceable regulations.

As regards the application of this principle, one concrete example to name is the future **Citizens' Portal** and the associated **portal network of Federal, state and local authorities**. The further development of this network into an authoritative and widely accepted platform for digital services to citizens and enterprises calls for a high degree of user orientation.

c. Strengthen federal competition - take performance comparisons between Federal states seriously

Despite scientific research on the differences in enforcement in the context of asylum and refugee management, less complicated administrative procedures do not seem to establish themselves - or only do so very slowly. One example to mention is the personal healthcare card. Existing studies on specific aspects are apparently not sufficient to speed up the adaptation of best practice examples. In light of this example, along with many other experiences, the universal argument that federal competition leads to ideal solutions which then basically self-propagate should be challenged.

In this context, **performance comparisons** could help to determine more quickly and systematically which enforcement models ought to be adopted. Comparisons of performance between Federal states are admissible under **Article 91d of the Basic Law**. **This clause could be converted from an optional to a mandatory provision**. In order not to jeopardise genuine learning and optimisation processes, it is important to avoid the scientifically established perverse incentives and negative effects of performance comparisons („gaming, cheating, window dressing“). What is needed is an intelligent mix of tools, including incentive control, the obligation to participate and the partial publication of results - where appropriate, in anonymous form. The performance comparisons could be conducted by an independent, possibly scientific organisation. With a view to serving as a “surrogate for competition” (Brüggemeier 2017: 61), more weight should be given to scientific support and monitoring as well as to transparency with regard to enforcement and system-related shortcomings in German administrative structures.

d. Increase accountability for results - use agreements on objectives to exercise a greater degree of control

Even though a number of effective modern forms of authority control are already in place - e.g. between the Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales - BMAS) and the Federal Agency for Employment (Bundesagentur für Arbeit - BA) - there are also instances in which the ministry exercising supervision interferes heavily with the organisational sovereignty of the subordinate authority. A striking example was the relationship between the Federal Ministry of the Interior (Bundesministerium des Innern - BMI) and the BAMF. Until a realignment took place in the wake of the refugee crisis, various specialist branches of the BMI used to issue technical and personnel-related directives to the BAMF's line organisation. This intermingling of macro- and micro-level control results in incoherent objectives and undermines the ability of the agency's management to make autonomous decisions on the way these objectives are to be achieved and the means to be used.

Therefore, control over subordinate agencies should rather be exercised via target agreements while maintaining a certain “distance”. They must be given more leeway and autonomy in deciding on the specific way in which they perform their tasks and in choosing the enforcement methods that are best suited to the problem. This includes personnel and resource management as well as effective controlling systems. Decentralising the accountability for results

and exercising “distance-based control” will enable and motivate the agencies involved to work out and implement more pragmatic as well as problem- and enforcement-oriented solutions.

The development of a model management structure for higher Federal authorities based on the experience of the BA and other agencies could be a useful approach. Its core element could be a **(supervisory) board structure** that integrates the widest possible range of expertise. The purpose is to broaden the horizon in terms of problem awareness and problem-solving.

3) Take advantage of the lessons learned from the refugee crisis - establish an expert council to modernise administration

The problems of administrative modernisation are still lacking presence on the public agenda, and efforts in this direction are not demanded consistently and vigorously enough. However, with a view to finding answers to longer-term issues it is of central importance to improve the efficiency of the politico-administrative system so as to be better prepared for future challenges and crises. The **establishment of an independent, high-level council of experts** to address the fundamental issues outlined below and advise and support the Federal Government in its modernisation efforts is therefore recommended.

a. Rethink law-making - first define the processes, then establish the paragraphs

Political and administrative authorities have dealt with the refugee crisis mainly by employing conventional means. The legislative changes effected and the operational measures initiated all fall within the existing legal and jurisdictional framework. It is however questionable whether these restrictions do justice to the overall situation. A particularly graphic example is the improvement of the Central Register of Foreigners: this project was launched with great commitment but ultimately experienced a considerable setback due to the failure of the Act to Promote the Continuous Development of Data Exchange. Also, the enforceability of the legal provisions was hardly tested; for instance, the residence requirement has created major challenges for local authorities.

It is not only in the context of asylum packages, however, but also in other areas of day-to-day legislative work that the NKR has observed that existing law all too often defines the framework of what seems conceivable and possible from a legislative point of view. However, this mindset and approach precludes new, open-ended and more progressive solutions.

In fact, the reverse procedure suggests itself and is reasonable: **Before the first section of a law is formulated, its contents and effect model as well as the subsequent administrative process - which will be digital in future - and effectiveness control (ex-post evaluation) should be conceptualised.** Based on such a concept, obstacles to enforcement can be identified, alternative (enforcement) options can be developed and the evaluability of new regulatory initiatives can be ensured. This is crucial with regard to phrasing legal texts that are compatible with e-government (Off et al. 2016: 48) and also in terms of effectiveness of enforcement. The regulatory alternatives should be subjected to a legal impact assessment, as

has been standard practice for some time in a number of other countries. It is not until clarity has been established through this approach on objectives, contents, the administrative process and the consequences of a new legal regulation that the version ultimately chosen should be converted into a binding legal text. The effectiveness of the legal regulation chosen should be evaluated after a reasonable period of time.

All the tools necessary to implement such an approach are available. With respect to the modelling of processes anticipating or accompanying the legislative process, the existing FIM (Föderales Informationsmanagement - Federal Information Management) project, for instance, would be well suited for this purpose - given sufficient resources and systematic implementation. Technical support could be provided in the future through the E-Legislation project.

This approach could be supplemented by experimentation clauses and mechanisms for testing and piloting selected regulatory alternatives. Following the example of Denmark and other countries, an independent **innovation lab** could provide assistance to such efforts. The purpose and mission of the innovation lab would be to support the authorities in charge in their endeavours to work out alternative solutions for a more effective implementation of political objectives. To this end, the innovation lab would develop a methodological canon. The lab should be allowed to use a share of its resources for its own research and projects so that it can provide stimuli and bring about a change in culture. One conceivable option would be to further develop the working group “Wirksam Regieren” (Effective Governing) into such an innovation lab.

b. Form follows function - critically examine established competences and responsibilities

The current division of tasks in the area of asylum and refugee management is a vivid example of how **the organisational structure of the administration all too often also defines its operational structure, i.e. the processes** (Bogumil et al. 2017: 77f.). Narrow-minded thinking along the lines of competences and jurisdiction prevents process-based analyses in terms of how and by whom a public service can be provided in the most effective and efficient way.

Designing effective processes should not be restricted by a rigid division of responsibilities, however. Once an **administrative process has been analysed**, it should be possible to **allocate sub-processes to the authorities and administrative levels in such a way as to ensure maximum effectiveness and efficiency**. This also implies that not all authorities are required to retain capacities if it is increasingly possible to build service networks where one or a few perform the tasks of all or many. At service centres, a wide range of services could be provided through the back office and subsequently brought together in the front office to be offered to the customer “in refined form”. By combining front office and back office services wisely, a much larger service network can be maintained that is close to the citizen.

While this type of intelligent task-sharing is indeed being practiced at the local level and also between different Federal states, it is rarely employed in the vertical direction, i.e. between administrative levels. In particular, cooperation between the Federal Government and state or local authorities is generally prohibited under constitutional law. Yet, there would be many options for organising public-sector tasks more effectively and efficiently. All this, however, on the condition that responsibilities do not become blurred.

c. Create a mechanism for crisis management - ensure the capacity to act beyond departmental boundaries and across administrative levels

The experience from the refugee crisis has shown how difficult it is in a Federal system with its fixed competences and responsibilities, to react flexibly, swiftly and effectively to unexpected challenges such as the outbreak of a crisis - especially under great time pressure (Bogumil et al. 2017: 9). Crises must be expected to occur in the future as well - and it has to be borne in mind that every crisis is different.

How, therefore, can precautionary measures be taken to ensure that in a similar scenario in the future, forces can be concentrated faster across all boundaries of competence, thus allowing more effective action (Schuppan/Köhl 2016: 123)? This question cannot be answered at present, as there is no legal framework for such concentrated action under extreme conditions spanning all levels of authority. **It should therefore be discussed whether the establishment of such a cross-level procedure is necessary and - if so - what it might look like.** This includes issues such as criteria for the activation of a crisis mechanism or the application of experimentation clauses as well as the establishment of an interministerial personnel pool for crises.

d. Enable the Federal Government to exert better control - measure and monitor strategy implementation

Unusual, complex challenges can push the capacity of the German governmental system to its limits. The refugee crisis has shown that there are shortcomings in the strategic, conceptual and implementation capabilities of political and administrative bodies across party, functional and authority-level boundaries. Ad-hoc summits - as held in a number of other situations in the recent past (e.g. Diesel crisis, economic crisis) - could not fill this gap. The legislative packages adopted at short intervals as a result of the refugee crisis were all too often determined by the fast-track implementation of summit decisions with no consistent, viable overall concept in place to back them up. Likewise, the allocation of refugees was clearly not based on a strategy geared to the particular challenges of refugee management, but rather on the so-called Königstein formula, which deals a lot with issues of funding between the Federal and state governments but very little or not at all with the accommodation of refugees, the processing of asylum applications and the availability of the required capacities (Geis/Orth 2016: 27).

In order to deal with such complex cross-cutting topics as flight and migration, but also digitalisation, demography and climate change, in their entirety, **an interagency strategic controlling mechanism is required that covers the definitions and the operationalisation of the targets as well as the verification of the latter** (Sturm/Pehle 2007: 93ff.; Kaiser 2007: 48f.). This system should be interconnected with budgetary planning and allocation.

This way, the Federal Chancellery - supported by expertise from the various departments - would be in a better position than in the past to ensure a consistent overall strategy in dealing with major challenges and problems - problems that cannot be solved solely by applying the departmental principle and which require a great deal of comprehensive government action. It

would also be possible to supplement this approach by an interdepartmental risk management and an early warning system that is indicator-based and draws attention to undesirable developments in an independent, timely and critical fashion (Sturm/Pehle 2007: 96ff.). Even though the BAMF was already faced with an increasing number of refugees and a considerable number of pending cases even before the start of the crisis, for instance, appropriate political consequences were not drawn in good time (Erler/Gottstein 2017: 8).

e. A change in culture within public administration – put greater focus on results and increase the accountability of those in charge

Time and again, the extent to which formal requirements determine the work of public authorities in Germany becomes apparent. Official decisions and administrative acts are expected to be formally correct and “court-proof” for good reasons. This applies particularly to the daily work of local authorities within the framework of statutory regulations, but it is also true for the Federal and state level. However, this mode of operation can become a problem if it encourages organisations and their staff to primarily want to protect themselves in every possible way. As a result, it can become increasingly difficult to deal flexibly with unavoidable risks and uncertainties. The problematic examples of the BAMF and the LaGeSo in Berlin have shown what consequences a lack of results orientation and leadership responsibility can entail.

Against this backdrop, an **administrative culture** should be promoted **that focuses more on solutions and results** instead of working solely along formal criteria and predetermined procedures. Germany’s public service, which is strongly characterised by thinking in legal terms, is not yet adequately equipped in its entirety to build up the skills and competences needed for a modern, digital administration that focuses on results and is open to innovation (Kroll et al. 2012: 79). What this means is that **legal expertise** in the ministries and in public administration is important, but it **is no longer sufficient**. Just as in the private sector, what really counts is a **well-balanced mix of diverse skills**. The upcoming wave of retirements presents an **opportunity to change the personnel structure and to shake up the “predominance of jurists” that prevails in many places, particularly in Federal and state-level administration**. There is a general need for reform in the areas of recruitment and promotion, access for lateral entrants, the recognition of qualifications acquired externally, competence profiles of executive personnel, the uncoupling of service career and remuneration, and the strengthening of performance-based elements of pay. More rotation between agencies would also provide an opportunity to broaden the horizon of staff in terms of technical expertise and administrative culture (Kroll et al. 2012: 79).

These efforts could be supplemented by putting greater focus on interdisciplinary teams and introducing a quota for non-jurists in the Federal administration. Additionally, process analysis, e-government and enforceability, legal impact assessment and legislative evaluation should be accorded a substantially greater role in legal training. More personnel exchange between the different administrative levels would be useful.

Also, **executive staff should be selected according to their ability to lead with a focus on results and less on the basis of formal criteria**. Setting objectives for staff and ensuring their

achievement can be considered the primary task of leadership. This competence should play a much greater role than in the past in professional advancement and performance assessment. Solid IT skills should become a given, as should an understanding of management, processes and structures and their technical support at all levels - also and especially at the executive level. Aside from implementing steps to support a change in culture, which is aimed primarily at the legislative bodies at the Federal and state levels, executive authorities such as local governments, which are responsible for implementing legal requirements and are bound by them, should be encouraged to notify the legislative bodies of any evidence of law that is hard to enforce or even contradictory. In order for these findings to effect actual legislative amendments, an effective feedback process is required, and this process must play a major role both in the preparation and coordination of regulatory initiatives but also in their evaluation.

f. Revise federal revenue equalisation - (re-)examine allocation of funds

The issue of adequate funding for local communities also played an important role in the refugee crisis. Similar questions arise with regard to upcoming integration tasks.

As a general observation, it can be stated that despite recent reforms of the system of federal revenue equalisation, there have been no significant changes as far as the allocation of funds is concerned. Funds continue to be allocated and redistributed on the basis of fixed, formal criteria. As a rule, direct payments of the Federal Government to the communities are not possible. The Federal states are placed between them and decide on the amount of funds to be passed on to the local level (Hummel/Thöne 2016: 22ff.; Brüning et al. 2017: 88ff.). This means that funding questions often stand in the way of finding the best possible method of organising the provision of administrative services, and these questions cannot be answered clearly due to an overly complex funding system. Sustainable solutions should be sought to tackle this structural problem.

Participation

In the process of preparing this paper, the NKR consulted the following researchers and experts and invited them to express their views. We would like to thank everyone mentioned for their valuable input.

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