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Motivations, experiences and consequences of returns and readmissions policy: revealing and developing effective alternatives



Executive Summary

RR on the Ground: Implementation of the RR Policy, its Impact, and State Agents' Assessment and Perception

Case Study: **Germany**

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This document provides a concise summary of the key findings of RR on the Ground (WP4). For detailed analysis, evidence, and comprehensive insights, please refer to the full report. The information in this summary should not be considered complete or fully representative of the entire study.

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Executive Summary – the case study of Germany

1. Introduction and Method

Deportations are a highly controversial and politicized issue in Germany. For several years now, political campaigns rallying for more and faster deportations have dominated the media while various deadly attacks committed by migrants and refugees have been instrumentalized in the same vein. To better inform and moderate these highly politicized debates playing out in the media and beyond, our analysis of the German case illuminates how deportations and return policies are (not) enforced on the ground. Based on 9 interviews and 2 focus-group discussions,¹ we are able to show that Germany’s return policies, which have been tightened several times in recent years, remain highly inefficient. This, among other things, serves to trigger a lot of frustration among those working for local immigration authorities. Against this backdrop, we demonstrate how some implementing agents have started to seek collaboration with civil society actors in order to improve access to right-to-stay regulations for integrated migrants. Nevertheless, we elaborate how these tightened return policies endanger migrants’ basic protection standards and basic living conditions, and how these in turn undermine right-to stay regulations. We argue that return policies foster poverty and petty crime based on the exclusion that can be understood to be a direct effect of these policies.

2. Return Policies are Bureaucratic, Inefficient and Foster Frustration

Time and again, missing identity documents as well as migrants not staying regularly in their places of accommodation are highlighted as main reasons for the high percentage of failed deportations by all implementing actors. To tackle these core issues, German legislators introduced several changes to the law in recent years (as we elaborate on further in our WP1 country report Germany). With those reforms, a series of sanctions and surveillance measures like longer stays in highly controlled accommodations centers, residence obligations, exclusion from work, reductions in benefits, barring from the right to stay, or extension of detention measures were implemented. Our WP4 research on the level of practical enforcement around deportations shows that what these legal changes have mainly produced is a costly bureaucratic system.

In the WP1 country report, we outlined the measures implemented to tackle “concealment of identity” and “unknown whereabouts.” Already the acceleration of the asylum procedure in 2016 saw long-term stays in initial reception centers implemented, with the aim of fostering deportations by controlling the place of residence of asylum-seeking migrants. Migrants with “Duldung”² status can be obligated to stay in the assigned district or spend the night in assigned accommodation for years on end. The 2019 Orderly Return Law introduced a new status called “tolerated stay for people with unclear identity” that increases pressure on migrants with “Duldung” status to organize a passport. This new status offers even fewer rights, despite the already precarious “tolerated stay” entailing reductions in benefits as well as restrictions on freedom of movement. Additionally, being of “unclear identity” has been a reason for exclusion from residency under all right-to-stay regulations since the latter’s inception in 2015. Furthermore,

¹ As informed and enriched also by Svenja Schurade’s PhD research on the German deportation regime, Because of the difficulty of field entry regarding this study’s topics of interest, two interviews with immigration authorities from her PhD sample were analyzed with regard to the WP4 questions. Furthermore, one relevant thematic area regarding the deportation of mainly “criminals” is included from Svenja’s PhD work.

² This “tolerated stay” is applied to a range of persons without legal status, when deportation measures are for various reasons temporarily placed on hold; it does not constitute a residence permit, as the so-called obligation to leave the country (Ausreisepflicht) remains legally in effect.

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“identity concealment” is a reason for detention. The 2024 Law to Improve Returns enacted a series of measures aiming to collect relevant information, via the analysis of mobile-phone data for instance. This law additionally allowed entire accommodation premises to be searched, doors to be broken open by a locksmith or by force, and information on the location to be obtained beforehand.

Our interviews with enforcement agencies demonstrate that the full legal possibilities opened up by legislators in recent years are utilized in practice. Nevertheless, research shows that highly controlled accommodation does not lead to a more efficient deportation regime (BAMF 2021). The ineffectiveness of these new laws became even clearer in the course of our work. In the context of missing identity papers, immigration authorities still lament the lack of effective measures to organize passports or other required papers and conclude that missing identity documents usually lead to long-term tolerated stays. In fact, return policies fail at the level of international diplomacy, when destination countries do not provide the required documents. Our research shows how the German strategy of shift the pressure onto the individual does not lead to increased cooperation, merely a bureaucratic sanctioning system.

Additionally, our findings make clear that the organization and enforcement of a deportation can fail on many different levels and due to various reasons, like having children born in Germany or mental-health issues, which are per law defined as impediments to expulsion. In fact, every organizational step in the process of deportation enforcement takes up a lot of the clerk’s time, and all these efforts can be in vain if small details change. Our research clearly demonstrates that the described bureaucratic regulations implemented in the past few years remain inefficient and costly. What becomes evident is how return policies produce a high workload and a lot of frustration within the implementing agencies, mainly among local immigration authorities. During the interviews, some local immigration authorities expressed clearly that in their view the workload could be significantly reduced by stopping the practice of issuing mandatory “Duldung” extensions every few months (or sometimes weeks), and instead simply granting people the legal possibility to stay. Accordingly, in the context of that high workload, it raises the question of whether the authorities should ultimately devote their capacities, resources, and efforts to facilitating stays or deportations. Addressing this would in turn lead to more satisfied employees and less sick leave being taken in the long term. The legal changes regarding return have fostered more bureaucratic administration and control, and therefore increased the burden on employees. Furthermore, those policies endanger protection standards, basic living conditions, and produce poverty-related criminality.

3. Return Policies Endanger Basic Living Conditions and Protection Standards

Within the research, it became obvious that in Germany a high division of labor is at play. Interviewed actors from the implementing agencies made clear that they trust the decisions on return and stay made by other agencies. However, empirical work shows that the acceleration of asylum procedures has significantly reduced the protection standards available to migrants (Hänsel et al. 2020).

Furthermore, regarding mental-health problems as impediments to deportation – decisions around which are made at the local level – it is clear that related protection standards are even more endangered by the focus on return. The AsylbLG limits access to healthcare for all asylum-seeking and tolerated migrants in Germany, granting treatment solely for “acute illness” (Biddle 2024; Führer 2023; Gottlieb & Schülle 2020). In fact, this limits the possibilities to diagnose mental-health problems as a reason to halt deportation. Our interviews made clear that implementing agencies

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mainly understand mental-health issues as something migrants fake, leading to the further pursuit of deportation. Nevertheless, our research can demonstrate that deportations even fail if the local immigration authorities seek the enforcement of deportation in the face of documented medical claims. Ultimately, mental-health problems were one of the most relevant reasons to cancel deportation at the airport or during apprehension.

Our WP2 country report Germany already demonstrated the interplay between the various forms of exclusion from access to basic living conditions under the AsylbLG. These circumstances are further exacerbated by the mentioned recent reforms to return policy, and the denial of eligibility for right-to-stay regulations. We analyze via a social-legal approach how return policies create living conditions that filter, hinder, and block migrants from fulfilling the eligibility criteria for the right to stay. These conclusions have been strengthened by our subsequent WP4 research.

4. Return Policies Produce Criminality

Already in the WP1 country report Germany we outlined how heated debate around faster deportations of “criminals” from among the migrant and refugee population has arisen in the last few years in light of a number of high-profile incidents. Our WP4 research shows that deportations of so-called criminals do not mainly target (rejected) refugees but migrants in general, namely those having their student, tourist, or work visa revoked due to committing criminal offenses.

Many migrants are detained and then deported in Germany because of committing petty crimes, which must be understood as a direct consequence of the tightening of return policies in recent years—and especially of the return politics of sanctioning and social exclusion. Above we argued that the laws implemented to strengthen return policies are less effective in increasing the number of deportations, rather what they produce above all is heightened social exclusion and precarity. Return policies have introduced several bureaucratic obligations for the person holding “Duldung” status. Examples are: residence requirements (Wohnsitzauflage); passport requirements (Passpflicht); an obligation to cooperate in terms of organizing the passport (Mitwirkungsverpflichtung bei der Passbeschaffung); or, residence obligations (Residenzpflicht). Additionally, the AsylbLG offers only minimal social benefits, something that has been criticized as unconstitutional because “human dignity cannot be relativized in terms of migration policy” (July 18, 2012 – 1 BvL 10/10). Furthermore, European Union labor migrants are excluded from social benefits altogether (Riedner and Hess 2024).

Our empirical insights shed light on how in Germany a “cimmigration” (Stumpf 2006; Graebisch 2019) regime is at play, which disproportionately affects poor migrants excluded from social benefits due to what has been analyzed as “welfare-state bordering” (Könönen 2018; Bendixsen and Näre 2024; Riedner and Hess 2024). This regime punishes with detention and deportation those who committed minor offenses, which must be understood as directly related to the living conditions the return policies create. The latter fail to fulfill all the described obligations and undermine the bureaucratic and legal order, for example if migrants are forced to take up illegal employment because of the absence of permission to work or must steal to meet the basic living requirements because social benefits are simply too low.

We analyze this entanglement of return policies with welfare-state bordering as a triple nexus of migration control, social/workfare polices, and criminalization, occurring in the context of awarding citizenship or enforcing deportation on the basis of moral, values-based principles (Schurade and Hess, forthcoming).

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5. Conclusion

Even if our findings uphold the observation that return is the main focus of the implementing agencies, it is likewise clearly shown that related policies are a bureaucratic nightmare, costly, and inefficient. Implementing agents made very clear that many deportations fail and cannot be enforced for diplomatic reasons and due to complicated, protracted procedures. The recently tightened return policies only lead to frustration and a high workload for staff. Against this backdrop, some implementing agencies have start to seek cooperation with civil society actors in order to initiate a shift from return-oriented implementation to focus on the implementation of right-to-stay rules for integrated migrants.

Nevertheless, our research also shows that return policies endanger protection standards and basic living conditions, which is leading cause of exclusion from the right to stay. In the WP2 country report Germany, we analyzed via a social-legal approach how return policies create living conditions that filter, hinder and block migrants from fulfilling the right-to-stay criteria. Our WP4 research furthermore demonstrates that the implemented sanctioning regime and policy of social exclusion serve to create “criminal migrants,” who are de jure excluded from the right to stay.

Another shift can be observed accordingly, namely the growing focus on deportations of so-called criminal migrants, as orchestrated by the right-wing media. In contrast, we have outlined how it is mainly poor migrant workers, homeless people, as well as impoverished claimants who dropped out of the asylum system who are affected by this shift, following the entanglement between migration, workfare, and criminalization policies (Schurade and Hess, forthcoming).

6. Further Reading

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