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The Organisation of Reception Facilities for Asylum Seekers in Germany

Focused Study of the German National Contact Point for the
European Migration Network (EMN)

Working Paper 55

Andreas Müller



The Organisation of Reception Facilities for Asylum Seekers in Germany

Focussed Study of the German National Contact Point for the European Migration Network (EMN)

Andreas Müller

Federal Office for Migration and Refugees 2013

Overview

The present study describes the reception and accommodation of asylum seekers in Germany. It was drawn up by the National Contact Point of the European Migration Network (EMN), which is assigned to the Federal Office for Migration and Refugees, as the German contribution towards a comparative European study of the accommodation of asylum seekers. The study describes the breakdown of competences along federal lines between the Federation and the *Länder*, and explains the mechanisms with which the reception of asylum seekers is coordinated between the Federal *Länder*. Furthermore, it illustrates the various procedures with which the Federal *Länder* organise the accommodation of asylum seekers and shows the different forms of accommodation and how the vital needs of asylum seekers are provided for. The Federation is responsible for implementing the asylum procedure through the Federal Office for Migration and Refugees. The Federal *Länder* are responsible for the accommodation and for providing payments and benefits in kind to cover the vital needs of asylum seekers. In order to guarantee that asylum seekers are dispersed evenly among the Federal *Länder*, a reception quota is set for each Federal Land on the basis of the number of inhabitants and tax revenue. The individual Federal *Länder* have set up initial reception centres for accommodation, to which the branch offices of the Federal Office for Migration and Refugees are assigned. Once the asylum application has been filed, asylum seekers are accommodated in temporary accommodation facilities after up to six weeks, but at the latest after three months. These tasks have been assigned to the municipalities in most of the Federal *Länder*. In this process, accommodation in both collective accommodation facilities and in individual houses or flats is used. Additionally, there are special facilities for vulnerable groups such as unaccompanied minors, traumatised asylum seekers and persons who have been subjected to sexual violence.

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1 Introduction

Following on from a phase of continually-falling asylum applications between 1995 and 2007, continual growth in the numbers of asylum seekers has been recorded in Germany since 2008. Because of the lasting downward trend, this reversal poses both administrative and organisational challenges when it comes to the accommodation of asylum seekers. Germany is no isolated case within the EU in this respect. The numbers of asylum seekers are also increasing in many other EU Member States. This leads to a growing need for information to be provided to policy-makers and the administration as to how to effectively organise the reception systems. This study is to meet this information requirement. The report deals both with questions related to accommodation and to the benefits to cover the basic needs of asylum seekers, as well as with the guidance which is made available to them. These aspects are dealt with primarily with regard to the players involved, to the political and administrative responsibilities, as well as to the range of benefits offered. The first section of the report focuses on the different facilities to accommodate asylum seekers, and the following section briefly describes the procedure for the reception of asylum seekers. The report then goes on to deal with the benefits to cover the vital needs of asylum seekers in legal and material terms, whilst the last section handles the flexibility of the reception system.

The conditions in which asylum seekers are received are determined by the federal distribution of competences in the migration administration. Thus, the Federation is responsible for the appropriate framework legislation and the Federal Office for Migration and Refugees for implementing the asylum procedure, whilst the implementation of the Asylum Seekers Benefits Act (*Asylbewerberleistungsgesetz*) and thus the provision of benefits to cover the vital needs of asylum seekers falls within the remit of the Federal Länder. Accordingly, the report is restricted to showing uniform practice across the nation, regardless of whether the standardisation is caused by a federal

statute or is brought about by horizontal cooperation between the Federal Länder, as well as to describing the arrangements made by the Länder. Since most Federal Länder have assigned the reception of those asylum seekers who are in Germany for a prolonged period to the municipalities and to the rural and urban districts, it is only possible to comment by quoting examples, and generalisation on the concrete reception situations is not possible, in particular with regard to the number of accommodation facilities as well as their capacities and occupancy.

This report was drawn up by the research group of the Federal Office for Migration and Refugees, and is the German contribution to the comparative European study of the European Migration Network EMN entitled “The Organisation of Reception Facilities for Asylum Seekers in the different Member States”. As mandated by the EMN, the study is to provide the necessary information for political and administrative decision-makers at European and national levels in order to guarantee an effective, dignified reception system for applicants for protection. The study is to be drawn up in all EU Member States and Norway according to jointly-agreed requirements in order to ensure that the national reports are comparable. These reports are subsequently to be compiled to form a comparative synthesis report.

2 Different types of Accommodation Facilities and different Actors

Accommodation for asylum seekers is provided within an interplay between uniform national regulation and conducting of the asylum procedure on the one hand, and the reception of asylum seekers by the Federal Länder on the other. Though there are both national and Länder regulations regarding the reception of asylum seekers, the administrative implementation is the exclusive responsibility of the Länder. A further area of interaction exists in most Federal Länder as to the types of financing and executive responsibilities of asylum seekers' accommodation. These are described in the second and third parts of this section. Finally, the mechanisms are illustrated according to which asylum seekers are first distributed among the individual Federal Länder and are then allotted to accommodation within the individual Federal Länder once they have left the (initial) reception centres.

2.1 Overview of the different types of accommodation facilities

Germany has four types of accommodation facility for asylum seekers: reception facilities, collective accommodation, local accommodation and facilities for vulnerable groups.

Reception facilities

Section 44 of the Asylum Procedure Act (Asylverfahrensgesetz – AsylVfG) obliges the Federal Länder to see to it that accommodation is provided to asylum seekers. In accordance with section 47 subs. 1 of the Act, asylum seekers who are required to file their asylum application with a branch office of the Federal Office are required to live in a reception facility for a period

of up to six weeks, but no longer than three months, while they are in the procedure. The Federal Länder are responsible for establishing these reception facilities. Branch offices of the Federal Office for Migration and Refugees, in which the asylum application is filed and the asylum procedure is implemented for persons who are living in the reception facility or who were further distributed within the respective Federal Land, are directly assigned to the respective reception facilities. The legislature intended that the proximity of these facilities to the branch office of the Federal Office would, firstly, shorten the procedure because asylum seekers would be available at short notice for the duration of the procedure, and secondly that termination of residence could already be initiated from the reception facility in the event of the asylum application being rejected (Deutscher Bundestag 1992).

Follow-up accommodation: collective accommodation and local accommodation

Whilst initial reception is largely governed by federal law, follow-up accommodation is to a large extent provided in accordance with the provisions of the respective Federal Land in the event of the length of the asylum procedure exceeding the permissible residence period in the reception facilities. Whilst the Asylum Procedure Act stipulates in this regard that: "Foreigners who have filed an asylum application and are not or no longer required to live in a reception facility, should, as a rule, be housed in collective accommodation" (section 53 subs. 1 of the Asylum Procedure Act). This is however a provision which leaves considerable latitude for the Länder and municipalities in selecting and designing the accommodation (Bergmann 2011: no. 9).

The Federal Länder can choose between collective accommodation, in which a large number of asylum seekers are accommodated centrally, and local accommodation, in which asylum seekers are placed in individual houses or flats.

Accommodation for vulnerable groups

In addition to the three types of accommodation mentioned above, most Federal Länder have special facilities for the reception of vulnerable groups, in particular unaccompanied minors, as well as traumatised persons seeking protection.

2.2 Financial responsibility

The Federal Länder are responsible as a matter of principle for the reception, accommodation and provision of benefits to cover the vital needs of asylum seekers, as well as of other beneficiaries in accordance with the Asylum Seekers Benefits Act. Accordingly, they also meet the cost of asylum seekers' accommodation. It is necessary to distinguish here as well between the various types of accommodation. For instance, reception facilities are in principle created, funded and operated by the Federal Länder on their own responsibility. The costs for the creation and operation of a reception facility cannot be detailed precisely. By way of example, reference is made to the budget plan of the Ministry for Integration of Baden-Württemberg, 5,936,400€ being estimated in 2013 for the operation of Karlsruhe Land reception facility.¹

With the exception of the Saarland² and of the Free State of Bavaria, the large Länder have assigned the reception of asylum seekers who are no longer obliged to live in a reception facility in accordance with section 47 subs. 1 of the Asylum Procedure Act to the municipalities and rural and urban districts. Most Federal Länder refund the costs incurred by the municipalities via a lump sum. It is however virtually

impossible to compare these with one another because of differing accounting periods and different variable shares. Thus, the Land Rhineland-Palatinate refunds to the municipalities 491€ per asylum seeker received per month (= 5,892 € per year) in 2013, but provides additional funds should a hospital stay be necessary. In Baden-Württemberg, by contrast, the municipalities receive 12,270€ per year per asylum seeker received (as per 2013). The lump sums are regularly revised and adjusted. In general, the principle followed in funding is that 15-30 % of the costs are to be met by the municipalities, whilst the remainder is refunded from Land funds in a lump sum (see Table 1 for an overview). The funding systems differ from this in both the large state Bavaria and in the city states Berlin, Bremen and Hamburg, where the Federal Länder implement reception and accommodation directly, so that it is not necessary to refund any costs since the receiving authorities are identical to those providing the funds.

2.3 Executive responsibility

It is necessary to distinguish between the various types of accommodation facility when it comes to executive responsibility. (Initial) Reception centres are in principle a matter for the Federal Land in question. By contrast, executive responsibility for accommodation following on from residence in a reception facility varies between the Federal Länder. As a rule, the municipalities in the large states – with the exception of Bavaria – are responsible for establishing, operating and maintaining the accommodation facilities, operation being assigned to private providers in some cases.

Reception facilities

The reception facilities are generally operated centrally by the respective Federal Land. They include branch offices of the Federal Office for Migration and Refugees, where the asylum applications are processed. As a rule, the reception facilities are assigned to the mostly intermediate and higher accommodation authorities³ of the Federal Länder. Having the initial accommodation organised by the same authority that is respon-

1 No figures are available for the total costs of the reception facilities nationally.

2 The Saarland Land Reception Act (Saarländisches Landesaufnahmegesetz) does oblige the local authorities to receive asylum seekers as a task performed within a state mandate (section 1 subs. 1 and 2 of the Act). The Land however only provides this possibility in the event of the capacities available in the collective accommodation facility of the Land Reception Facility in Lebach (1,300 beds, as per 2012) not being sufficient.

3 This is an intermediary authority between the highest foreigners and accommodation or reception authority (as a rule the Interior, Integration, or Social Ministry of the Federal Land) and the local immigration authorities. In most cases, they are assigned to the administrative regions (in the large Länder) or to Länder authorities subordinate to the respective ministry.

Table 1: Budgetary funds carried in the Land budget for the accommodation of asylum seekers in thousands of Euro*

	Cost refund to the local authorities	2012 (estimated)
Baden-Württemberg	One-off payment of 12,270€ per person (as per 2013)	63,559
Bavaria	No refund since the Free State of Bavaria supplies the funds	121,350
Berlin	Not applicable	12,900
Brandenburg	Annual lump sum of 7,480€ per person (as per 2012; retroactive increase to 8,020€ for 2012 and 9,011€ for 2013 planned)	25,086
Bremen	Not applicable	No information
Hamburg	Not applicable	11,655
Hesse	Monthly lump sum between 407€ and 515.54€ per person; additional expenses of 10,226€ per person per year for healthcare and other services	33,000
Mecklenburg-West Pomerania	No information	17,320
Lower Saxony	Annual lump sum of 5,036€ per person from 2013	110,900
North Rhine-Westphalia	Lump sum allocation from the Land according to allocation scheme	75,375
Rhineland-Palatinate	Monthly lump sum of 491€ per asylum seeker (from 2013); if undergoing in-patient hospital treatment, additional costs caused by illness or assistance of 7,600€ per person per stay; in case of serious permanent treatment, additional costs caused by illness of 35,000€/per person per year	13,782
Saarland	Full amount of the benefits in accordance with the Asylum Seekers Benefits Act	4,033
Saxony	Per quarter 1,500€ per person for reception and accommodation; in case of illness, pregnancy and birth additional expenditure of 7,669.38€ per person per year	23,040
Saxony-Anhalt	Covered by lump sum payment of all tasks carried out by the local authorities within the tasks assigned (section 4 of the Financial Equalisation Act (Finanzausgleichsgesetz – FAG))	4,126
Schleswig-Holstein	70 % of the expenses actually incurred	23,692
Thuringia	Lump sum for accommodation of 177€ per refugee received per month; lump sum for assistance of 24.45€ per refugee received per month; lump sum for benefits of 272€ per refugee received per month for whom benefits are actually provided (planned to be increased to 354€ as per August 2012); in case of illness, pregnancy and birth, as well as assistance for long-term care, additional expenditure of 2,556.46€ per refugee per year	16,810

* Due to differences in the recording methods, the information on the budget items of the individual Federal Länder can only be compared with one another to a highly-restricted degree. The benefits which the Federal Länder post under the budget item “accommodation” differ. In the budget plans of some Federal Länder, the task of accommodating refugees is posted with other items under “Other”, this being the case in Brandenburg. It should furthermore be taken into account that some of the Federal Länder which have delegated the reception of refugees to the local authorities do not refund the full costs to them, but assume some of the costs via a lump sum. These Federal Länder only post what amount is planned to refund costs to the local authorities without revealing here the respective shares for accommodation and other benefits to cover the vital needs of asylum seekers. In some cases, such as in the case of the Lower Saxony Land reception authority, these items also include costs which are incurred in connection with preparation for deportation, and hence do not strictly speaking belong with the accommodation costs.

Source: Ministries of Finance of the Länder, Länder questionnaire carried out by the Working Party of the Länder on Refugees and Integration

sible for implementing measures to terminate residence is to ensure that the procedure is shortened as intended by the legislature. In the event of the Federal Office being able to decide on the asylum application within six weeks up to a maximum of three months – this is the maximum period that asylum seekers are obliged to live in the reception facility – and the application being rejected as to be disregarded or manifestly

unfounded, it is guaranteed that the foreigner, who is then obliged to leave the country, is available for the responsible foreigners authority. If no decision can be taken at short notice, the Federal Office informs the responsible foreigners authority, and the asylum seeker is released from the reception facility (section 50 subs. 1 of the Asylum Procedure Act). The obligation to live in the reception facility is furthermore to ensure

Tables 2: Land authorities responsible for the operation of reception facilities

Federal Land	Responsible authorities	Legal basis
Baden-Württemberg	Karlsruhe Regional Commissioner's Office	Section 12 subs. 1 No. 1 of the Baden-Württemberg Residence and Asylum Competence Ordinance (AAZuVO)
Bavaria	Government of Central Franconia (Zirndorf central reception facility), Government of Upper Bavaria (Munich reception facility)	Art. 2 of the Reception Act (AufnG), section 3 of the Bavarian Asylum Implementation Ordinance (DVAsyl Bayern)
Berlin	Berlin Land Office of Health and Social Affairs	Section 2 subs. 1 of the Act Establishing Land Offices (LAmtErG)
Brandenburg	Central foreigners authority	Section 3 No. 2 of the Brandenburg Immigration and Asylum Competence Ordinance (AAZV Brandenburg)
Bremen	Senator for Social Affairs, Children, Youth and Women	Section 1 of Bremen Reception Responsibility Ordinance (AufnZVO Bremen)
Hamburg	Authority of the Interior and Sport	No. II subs. 4 of the Immigration and Asylum Competence Ordinance (AuslAsylZustAn0)
Hesse	Gießen Regional Commissioner's Office	Decree of the Hesse Social Affairs Ministry of 14 August 2012 (ref. Iv6A - 58a0101 - 0001/2012)
Mecklenburg-West Pomerania	Office of Migration and Refugee Affairs	Section 1 subs. 1 No. 1 of the Mecklenburg-West Pomerania Land Immigration Competence Ordinance (ZuwFIAGDLVO M-V)
Lower Saxony	Braunschweig and Friedland central reception and foreigners authorities	Circular of the Lower Saxony Ministry of the Interior and Sport of 14 December 2004
North Rhine-Westphalia	Bielefeld and Dortmund central foreigners authorities	Section 5 subs. 1 of the Ordinance on Responsibilities for Immigration (ZustAVO)
Rhineland-Palatinate	Supervision and Services Directorate	Section 4 subs. 2 of the Rhineland-Palatinate Reception Act (AufnG RP)
Saarland	Land Office for Immigration and Refugee Affairs	Section 2 subs. 1 No. 1 of the Ordinance on Responsibilities for Foreigners, Asylum Seekers, Refugees and Ethnic German Resettlers and on Reception, Dispersal and Accommodation (AFSVO)
Saxony	Saxony Land Directorate	Section 3 subs. 2 No. 3 of the Saxon Residence and Asylum Competence Ordinance (SächsAAZuVO)
Saxony-Anhalt	Land Administration Office	
Schleswig-Holstein	Land Office for Immigration Matters	Section 5 subs. 2 of the Foreigners Reception Ordinance (AuslAufnVO)
Thuringia	Thuringia Land Administration Office	Section 1 subs. 2 of the Thuringian Ordinance Implementing the Asylum Seekers Benefits Act (ThürDVOAsylbLG)

Source: Land statutes and ordinances on the reception of refugees

that asylum seekers are available for the implementation of the asylum procedure to the branch office of the Federal Office that is assigned to the reception facility in order to facilitate the rapid implementation of the asylum procedure.

Follow-up accommodation

Unlike initial reception, there is much greater variation in the system of follow-up accommodation: Firstly, two different forms of accommodation are

practiced here – collective accommodation and local accommodation (see Section 2.1). Secondly, there are considerable differences between the Federal Länder when it comes to executive responsibility, operation and political and administrative responsibility for the design of follow-up accommodation. Whilst the majority of the Federal Länder have assigned these tasks to the municipalities with differing degrees of latitude, Bavaria and the city states operate the follow-up accommodation facilities themselves. The list below reflects the legal situation in the individual Federal

Länder. Additional information on the actual operation of follow-up accommodation is provided where available:

- In the Free State of Bavaria, follow-up accommodation is set up and operated by the administrative regions, that is the intermediate authorities belonging to the Federal Land⁴ (Art. 4 para. 2 of the Reception Act); tasks are generally not assigned to the local authorities. The latter are only obliged to support the governments⁵ in establishing collective accommodation facilities (section 5 subs. 3 of the Asylum Implementation Ordinance). Only where it is impossible to accommodate persons in the regular accommodation facilities is the establishment of suitable facilities assigned to the local authorities (Art. 6 para. 1 sentences 1 and 2 of the Reception Act). The nature of the accommodation is also uniformly regulated by Land law. For instance, other than in justified exceptional cases, all persons are to be accommodated in collective accommodation facilities (Art. 4 para. 1 of the Reception Act). Exceptional cases may be illness and pregnancy, as well as persons who have sufficient income or assets to be able to support themselves and possibly their family. Also families where at least one family member is not obliged to live in a collective accommodation facility because of their residence status can exceptionally be exempt from the obligation to live in a collective accommodation facility (Art. 4 para. 6 of the Reception Act). There is no provision to assign accommodation to non-state facilities.
- In Baden-Württemberg, reception is organised by the district commissions (in rural districts) and city administrations with urban districts. Compared with the situation in other Federal Länder, the municipalities generally have little latitude for designing follow-up accommodation since the Refugee Reception Act already specifies the accommodation conditions in detail. For instance, accommodation “as a matter of principle must

take place in collective accommodation facilities” (section 6 subs. 1 of the Refugee Reception Act [FlüAG]). Exceptions to this are only possible in case of personal hardship with the consent of the competent Regional Commissioner’s Office. The practice which is common in many municipalities of other Federal Länder of assigning the operation of accommodation facilities to non-state providers is precluded by Land law in Baden-Württemberg: Here, the “facilities of temporary accommodation shall be [...] established, managed and operated by the lower reception authorities. The city and rural districts shall provide the necessary staff” (section 6 subs. 3 of the Refugee Reception Act). The municipalities were only granted a certain degree of latitude in August 2012 by the “Temporary guidelines for application of the Integration Ministry on the implementation of the Refugee Reception Act”: “Where the lower reception authority [that is the district commission or municipal administration] presumes a hardship case to apply, the necessary consent of the higher reception authority [...] shall generally be deemed to have been given” (Integrationsministerium Baden-Württemberg 2012: 6). Since then, the municipalities have also been able to derogate from accommodation in collective accommodation facilities “where this appears to be expedient on the basis of the local circumstances and is possible, taking the existing refund of expenditure into account” (Integrationsministerium Baden-Württemberg 2012: 7).

In most Federal Länder, the local authorities in the shape of the rural districts, municipalities and urban districts take over the establishment and operation of follow-up accommodation as a task assigned to them. They enjoy differing degrees of latitude in doing so:

- Brandenburg:
Here, the accommodation of asylum seekers who are no longer obliged to live in a reception facility was assigned to the rural and urban districts (section 1 subs. 1 of the Land Reception Act). This task is carried out in local self-administration. As a rule, asylum seekers who have been received by the local authorities are accommodated in collective accommodation facilities. Most local authorities have assigned the operation of these collective accommodation facilities to welfare associations and private providers; the legal basis for this is pro-

4 In a three-tier authority structure, the term intermediate authority refers to the hierarchy level between the lower local authorities and the highest authorities. In the large Länder, these are in most cases administrative regions.

5 Government is the official designation of an administrative region in Bavaria.

vided by section 4 subs. 3 of the Brandenburg Land Reception Act (LAufnG Brandenburg). Only two collective accommodation facilities are operated by the municipalities directly (as per: 22 June 2013).

- Hesse:
With section 1 subs. 1 No. 1 of the Land Reception Act, the Land Hesse has assigned the task of the accommodation of asylum seekers to the local authorities. In accordance with section 3 subs. 1 of the Land Reception Act, the local authorities are free to avail themselves of third-party assistance to this end.
- Mecklenburg-West Pomerania:
The task of receiving asylum seekers is assumed by the rural and urban districts in the assigned tasks (section 4 subs. 1 in conjunction with section 1 subs. 1 a) of the Refugee Reception Act). The services of non-state providers can only be used to operate the collective accommodation facilities (section 4 subs. 2 of the Refugee Reception Act).
- Lower Saxony:
Within the tasks assigned, rural and urban districts take on the implementation of the Asylum Seekers Benefits Act and the accommodation of asylum seekers who do not live in reception facilities or in a collective accommodation facility assigned thereto (section 2 subs. 1 and 2 of the Reception Act).
- North Rhine-Westphalia:
The municipalities are responsible for the accommodation of asylum seekers (section 1 subs. 1 of the Refugee Reception Act). They carry out this task as instructed by the superior Land agencies (section 6 subs. 1, 3 and 4 of the Refugee Reception Act).
- Rhineland-Palatinate:
Here, the reception of asylum seekers is assumed by the local authorities as a “mandatory task of self-administration” (section 1 subs. 1 sentence 1 No. 1 of the Rhineland-Palatinate Reception Act [AufnG RP]). It is not specified to what degree they may avail themselves of third-party assistance.
- Saarland:
The municipalities are obliged to receive asylum

seekers; this task is a state mandate (section 1 subs. 1 and 2 LAG).

- Saxony:
Here too, follow-up accommodation is provided by the rural and urban districts subject to instruction (section 2 subs. 1 and 2 of the Saxon Refugee Reception Act [SächsFlüAG]).
- Saxony-Anhalt:
The reception of asylum seekers is provided by the rural and urban districts as an assigned task (section 1 subs. 1 sentence 1 No. 5 of the Saxony-Anhalt Reception Act [AufnG ST]). Moreover, the Land “in agreement with the rural district and the urban districts may operate collective accommodation or have it operated” (section 1 subs. 6 of the Saxony-Anhalt Reception Act).
- Schleswig-Holstein:
With section 1 subs. 2 in conjunction with section 3 subs. 1 sentence 1 No. 6 of the Land Reception Act, the Land has assigned the reception of asylum seekers to the local authorities to be implemented subject to instruction.
- Thuringia:
The Land Thuringia has assigned to the rural and urban districts the task of receiving and accommodating asylum seekers who have been assigned to the Land (section 1 of the Thuringian Refugee Reception Act [ThürFlüAG]). Additionally, collective accommodation facilities can also be established by the Land (section 2 subs. 2 of the Refugee Reception Act). Both local authorities and the Land may avail themselves of the services of non-state providers (section 2 subs. 1 and 2 of the Refugee Reception Act) for the operation of collective accommodation facilities.

The accommodation in the city states differs from the situation in the large states:

- In Berlin, follow-up accommodation is carried out by the Land, with the involvement of non-state players. For instance, the Berlin Land Office of Health and Social Affairs is responsible for the “establishment, operation, occupation and closure of initial reception facilities and collective accommodation facilities, as well as for procuring

home and residential places for asylum seekers [...] through contracts with third parties” (Annex 1 No. 13 to section 2 subs. 1 of the Act Establishing Land Offices). As to the concrete accommodation, asylum seekers in Berlin “are as a rule to be accommodated in houses or flats where accommodation in a house or flat is cheaper than collective accommodation in the individual case, if there is no obligation to live in a reception facility and if the right to benefits is not to be restricted in accordance with section 1a of the Asylum Seekers Benefits Act” (No. 1 subs. 1 of the Implementation Regulations on the Renting of Housing by Beneficiaries in accordance with the Asylum Seekers Benefits Act [AV Wohn-AsylbLG]).⁶

- In Bremen, the Senator for Social Affairs, Children, Youth and Women assumes the distribution among the urban municipalities Bremen and Bremerhaven of those asylum seekers who are taken on by the Land who are no longer obliged to live in a reception facility. For the urban municipality Bremen, it is also responsible for the accommodation and care of asylum seekers (Senatorin für Soziales, Jugend und Frauen n. d.). For the urban municipality Bremerhaven, this task is taken on by the Social Affairs Office of Bremerhaven municipal committee.⁷ Whether the follow-up accommodation facilities are in public or private executive responsibility is not stipulated by law.
- In Hamburg, the Authority of the Interior and Sport is responsible for the implementation of the Asylum Procedure Act (Art. II para. 2 of the Immigration and Asylum Competence Ordinance). Since no separate Land law regulates the reception and accommodation of asylum seekers, the Authority of the Interior and Sport is also responsible for follow-up accommodation. The law does not stipulate how it implements this in practice.

⁶ Section 1a of the Asylum Seekers Benefits Act restricts benefits for asylum seekers in the event that they have only lodged an asylum application in order to be able to draw benefits in accordance with the Asylum Seekers Benefits Act, as well as for persons who are subject to obstacles to deportation which they themselves have caused.

⁷ http://www.bremerhaven.de/downloads/258/9768/Aktenplaene_Amt50.pdf, retrieved on 17 July 2013.

2.4 Coordination and distribution mechanisms

Since a large number of authorities are responsible at a wide variety of administrative levels for the reception and accommodation of asylum seekers, the reception system has a considerable vertical and horizontal coordination requirement between the instances which are involved. It is possible to distinguish between two mechanisms: In a first step, the newly-arrived asylum seekers are distributed among the Federal Länder using the EASY system (initial distribution of asylum seekers). In a second step, the respective Federal Land distributes the asylum seekers who are released from the reception facilities among the follow-up accommodation facilities. To this end, most Federal Länder use a procedure which defines the reception quotas for the rural and urban districts and assigns asylum seekers to them for accommodation in accordance with the quota.

Moreover, in the shape of the Working Party of the Länder on Refugees and Integration, there is a Federation-Länder working party comprising representatives of the Land Ministries responsible for the reception of asylum seekers, as well as of the Federal Ministry of the Interior and of the Federal Office for Migration and Refugees, and which serves to discuss practical challenges in the accommodation of asylum seekers.

The Federal Level

In order to bring about an even, fair distribution of the burdens linked to the reception of asylum seekers between the individual Federal Länder, asylum seekers are distributed among the individual Federal Länder according to a quota arrangement which considers both tax revenue and the size of the population. In this system, the reception quotas of the individual Federal Länder are set according to the scheme of the Federation-Länder Commission for Educational Planning and Research Promotion, the “Königstein Key”, and are re-defined on an annual basis (section 45 of the Asylum Procedure Act, cf. also Table 3 and Figure 1).

Table 3: Reception quotas of the Federal Länder for 2012

Baden-Württemberg	12.82 %
Bavaria	15.19 %
Berlin	5.04 %
Brandenburg	3.10 %
Bremen	0.93 %
Hamburg	2.55 %
Hesse	7.23 %
Mecklenburg-West Pomerania	2.08 %
Lower Saxony	9.31 %
North Rhine-Westphalia	21.44 %
Rhineland-Palatinate	4.81 %
Saarland	1.23 %
Saxony	5.17 %
Saxony-Anhalt	2.93 %
Schleswig-Holstein	3.37 %
Thuringia	2.79 %

Source: BAMF (2013)

Accordingly, the reception facility where the asylum seeker has registered is responsible for the reception of an asylum seeker if the branch office of the Federal Office assigned to it processes asylum applications from the asylum seeker's country of origin and the Federal Land in which the reception facility is located still has vacancies available under the terms of the national distribution quota (section 46 subs. 1 of the Asylum Procedure Act). If these conditions are not met, the closest Federal Land, which meets these conditions, is responsible (section 46 subs. 2 of the Asylum Procedure Act). The Federal Office for Migration and Refugees operates as the central agency for coordination, to which the Federal Länder report vacancies in the reception facilities as well as persons who have been received, so that the Federal Office is able to use the EASY system to ascertain which reception facility is responsible in each case.

Table 4: Authorities responsible for follow-up accommodation and criteria for distribution within the Land

Federal Land	Responsible for accommodation	Basis for the reception quotas
Baden-Württemberg	Local authorities	No. of inhabitants (section 4 subs. 2 of the Refugee Reception Act)
Bavaria	Administrative regions with the involvement of the local authorities	Legal ordinance (sections 6 and 7 of the Asylum Implementation Ordinance)
Berlin	Land Government (Berlin Land Office of Health and Social Affairs)	
Brandenburg	Local authorities	No. of inhabitants (section 3 subs. 3 of the Land Reception Act)
Bremen	Bremen and Bremerhaven urban municipalities	Quota set by Land statute (section 3 subs. 3 of the Bremen Reception Act [AufnG Bremen])
Hamburg	Land Government (Authority of the Interior and Sport)	
Hesse	Local authorities	No. of inhabitants (section 2 subs. 1 of the Land Reception Act)
Mecklenburg-West Pomerania	Local authorities	No. of inhabitants (section 6 subs. 1 of the Mecklenburg-West Pomerania Land Immigration Competence Ordinance)
Lower Saxony	Local authorities	No. of inhabitants (section 1 subs. 1 sentence 2 read in conjunction with section 2 subs. 1 of the Reception Act)
North Rhine-Westphalia	Local authorities	By no. of inhabitants and area (section 1 subs. 1 read in conjunction with section 3 subs. 1 of the Refugee Reception Act)
Rhineland-Palatinate	Local authorities	No. of inhabitants (section 2 subs. 1 No. 2 read in conjunction with section 6 subs. 1 of the Rhineland-Palatinate Reception Act)
Saarland	Local authorities	No. of inhabitants (sections 1 and 2 LAG)
Saxony	Local authorities	No. of inhabitants (section 2 subs. 1 and 2 read in conjunction with section 6 subs. 3 of the Saxon Refugee Reception Act)
Saxony-Anhalt	Local authorities	No. of inhabitants (section 1 subs. 1 and 3 of the Saxony-Anhalt Reception Act)
Schleswig-Holstein	Local authorities	Legal ordinance (section 1 subs. 2 of the Land Reception Act read in conjunction with section 7 subs. 1 of the Foreigners Reception Ordinance)
Thuringia	Local authorities	Legal ordinance (section 2 subs. 1 of the Thuringian Refugees Distribution Ordinance [ThürFlüVertVO])

Source: Land statutes and ordinances on the reception of refugees.

Figure 1: Reception quotas of the Federal Länder for 2012



Source: Federal Gazette No. 164 of 28 October 2010, p. 3633
Survey administration of the Länder and Federal Agency for Cartography and Geodesy 2012, own adaptation

The Länder

Most large states have a system that is comparable with the EASY distribution in order to coordinate the dispersal of asylum seekers after their redistribution from the reception facility. In the majority of cases, a quota is used for the individual rural and urban districts, and allocations are made according to the share accounted for by their populations among the number of inhabitants of the Federal Land. The economic situation of the municipalities is also taken into account in some Federal Länder when calculating the reception quotas. In Brandenburg, for instance, the share of persons in compulsorily insurable employment in a rural district as a ratio of the inhabitants of the Federal Land in compulsorily insurable employment or activity is also included in the reception quota (section 3 subs. 1, 2 and 3 of Brandenburg Distribution Ordinance [VertVBbg]). This quota is verified at regular intervals in most Federal Länder and set by a legal ordinance. As a rule, it is the reception facility of the Federal Land or the authority to which the latter is attached in organisational terms which operates as the central body which organises the dispersal among the individual municipalities according to this quota.

A distribution system based on quotas also exists in the Free State of Bavaria, where it is established by issuing a legal ordinance how many asylum seekers the administrative regions may accommodate in the individual municipalities (section 7 of the Asylum Implementation Ordinance). The difference as against the other Federal Länder however consists in reception not being carried out by the local authorities but only in their territories, whilst the collective accommodation facilities established there are operated by the administrative regions.

2.5 Involvement of non-state actors

The accommodation and guidance of asylum seekers is not only guaranteed by the state facilities. Non-governmental organisations are also involved in various aspects of accommodation. Non-governmental organisations in all Federal Länder offer procedural and social advice. Non-governmental organisations in some Federal Länder – particularly in the shape of church welfare associations – take on the accommoda-

tion of those asylum seekers who are no longer obliged to live in a reception facility (cf. also Section 2.3). In addition to accommodation, above all advice by independent facilities is covered.

The reception facilities themselves are obliged to inform asylum seekers “which organisations can advise [...] the foreigner on accommodation and medical care” (section 47 subs. 4 sentence 2 of the Asylum Procedure Act).

Financial assistance is provided for the guidance and social care of asylum seekers by non-governmental organisations in some Federal Länder. For instance, in the Free State of Bavaria it is provided in accordance with the Asylum Social Counselling Guideline (Asylsozialberatungs-Richtlinie). In individual cases, the responsible Land authorities regard guidance by the welfare associations as a substitute for the public task of social educational care, and reduce the care keys accordingly.

Equally, non-state facilities are involved in caring for vulnerable groups. The Refugio association should be especially emphasised here, which operates advisory and treatment services for traumatised refugees in five Federal Länder.

Projects organised by non-state providers in the field of social and psycho-social care of asylum seekers are also co-financed by the European Refugee Fund (ERF). 8.9 million € was provided from ERF funds to care for refugees and asylum seekers in a total of 110 projects organised by non-state providers for 2012. These projects received a further 2.58 million € in state funding.⁸

⁸ An overview of the projects promoted by funds from the ERF in Germany can be found at <http://www.bamf.de/DE/DasBAMF/EUFonds/Projekte/projekte-node.html>.

3 Reception procedure

3.1 Accommodation facilities for selected groups of asylum seekers

The reception of various groups of individuals who receive benefits in accordance with the Asylum Seekers Benefits Act is regulated by the Land Reception Acts. This may entail various forms of accommodation regardless of the legal status of the individuals concerned. As a matter of principle, each asylum seeker must be accommodated. Vulnerable groups such as unaccompanied minors, traumatised asylum seekers or pregnant women are accommodated in separate facilities in some Federal Länder. Pursuant to section 42 subs. 1 sentence 1 No. 3 of Book VIII of the Social Code (SGB VIII), every unaccompanied minor younger than 18 years is to be taken into care by the youth welfare office. They are taken into care irrespective of whether they have applied for asylum. Even juveniles of age 16 and 17, who are according to the current legal situation eligible to participate in an asylum procedure, are de facto no distributed among the Federal Länder but are immediately taken into care by the youth welfare office. The Federal Länder decide on a case-by-case basis whether unaccompanied minors or other vulnerable groups must be accommodated in special facilities or on a residential basis. In addition to accommodation in specialised facilities, most Federal Länder grant priority to access to accommodation in individual houses or flats for specific groups of asylum seekers. Moreover, deadlines are frequently set after which asylum seekers are entitled to move out of the collective accommodation facility:

- In Bavaria, single parents and families with at least one minor child are entitled to move out of the collective accommodation facility if the initial proceedings have been completed and deportation is not possible (Art. 4 para. 4 No. 1 of the Reception Act). All other asylum seekers may move out of the collective accommodation facility four years after completing the initial proceedings (Art. 4 para. 4 No. 1 of the Reception Act). It is only permissible

to derogate from these periods in justified exceptional cases, such as in case of illness or pregnancy (Art. 4 para. 6 of the Reception Act). There is no legal right to this, however. By contrast, individual accommodation is ruled out for persons who do not cooperate in establishing their identity or who otherwise violate their obligations to cooperate. Persons who have been sentenced to a punishment of at least 50 daily rates are also not entitled to move out of the collective accommodation facility.

- Other Federal Länder, by contrast, grant to vulnerable asylum seekers priority access to local accommodation in individual houses or flats. In the Land Brandenburg, for instance, there is no obligatory deadline after which it is possible to move out of the collective accommodation facility. Immediate accommodation in an individual house or flat is possible in individual cases, such as in case of a disability. Furthermore, the Brandenburg Ministry of Labour, Women and Family recommends in a circular to the local authorities to accommodate vulnerable groups in individual houses or flats wherever possible as early as after six months and all others after twelve months at the latest. The attempt to negotiate a binding accommodation concept with the local authorities is however made difficult because of the large number of new arrivals, as well as for cost reasons.⁹
- The Thuringian Refugee Reception Act opens up to the local authorities the possibility to accommodate asylum seekers in individual houses or flats if they have lived in a collective accommodation facility for more than 12 months. This form of accommodation is recommended to the local authorities for families and single parents (section 2 subs. 3 of the Refugee Reception Act).

⁹ Information by telephone from Brandenburg Ministry of Labour, Women and Family, 21 June 2013.

3.2 Assessment of vulnerability

In order to accommodate vulnerable groups separately, it is first necessary to identify them. It is first and foremost the reception facilities where such vulnerability is to be identified. This is where the staff deployed to provide care should for example pay attention to signs of any traumatisation. In the second instance, signs of traumatisation are looked for while the asylum seeker is being interviewed by the Federal Office. The Federal Office has been deploying specially-commissioned case-officers since 1997 to recognise in the interviews which are held in the asylum procedure whether interviewees have been subjected to violence or gender-specific persecution. If a need for action is recognised here, the specially-commissioned case-officers refer individuals to facilities which offer assistance and contact the appropriate agencies where necessary. The Federal Government stated a long time ago on this matter: "The Federal Government considers it to be necessary to look out for signs of particular vulnerability in each phase of the asylum procedure. There will be no systematic search for asylum seekers with possible mental, physical or other comparable defects." (Deutscher Bundestag 2008: 5).

The situation is different when it comes to unaccompanied minors since their outward appearance may already indicate that they may be minors. In this case, the youth welfare office, any "clearing offices" that may be responsible or foreigners authorities estimate their age, or a medical age assessment is commissioned (Parusel 2009: 31). In accordance with section 42 subs. 1 sentence 1 No. 3 of Book VIII of the Social Code, the youth welfare office is entitled and obliged to take a child or juvenile into its care if a foreign child or a foreign juvenile comes to Germany unaccompanied and there are neither persons with custody nor parental authority in Germany. Taking someone into care entails also temporarily accommodating them with a suitable person, in a suitable facility or in another form of accommodation. In accordance with section 42 subs. 3 sentence 3 of Book VIII of the Social Code, a guardian or curator for unaccompanied minors is to be appointed without delay. This means that it is up to the Land authorities to establish whether the person is a minor and whether this person is unaccompanied.

In accordance with the recast Reception Conditions and Asylum Procedures Directives, which came into force on 19 July 2013, the Member States must examine within a reasonable period after an application for international protection has been lodged whether an applicant needs special procedural guarantees (Art. 24 Procedures Directive) or has special needs on reception (Art. 22 Reception Directive). It will therefore be necessary to examine when transposing the Directives in Germany to what extent there is need to adapt the procedural regulations for identifying vulnerable persons.

4 National Legislation on Covering the Vital Needs of Asylum Seekers

4.1 Benefits for asylum seekers

As far as asylum seekers do not have sufficient income or assets, they receive benefits to cover their vital needs on the legal basis of the Asylum Seekers Benefits Act (section 1 subs. 1 No. 1 of the Asylum Seekers Benefits Act). This act is not limited to asylum seekers but also covers persons whose deportation has been temporarily suspended in accordance with section 60a of the Residence Act (AufenthG), as well as persons who are “enforceably obliged to leave the country, including if a deportation notice is not yet or no longer enforceable” (section 1 subs. 1 No. 5 of the Asylum Seekers Benefits Act). Equally, family members, as well as some further groups of individuals, receive benefits on the basis of the Asylum Seekers Benefits Act.

The fundamental benefits are set out in section 3 of the Asylum Seekers Benefits Act. The fundamental principle is the priority of benefits in kind, according to which “necessary requirement as to food, housing, heating, healthcare and body care and household durables and consumables [...] is covered by means of benefits in kind” (section 3 subs. 1 of the Asylum Seekers Benefits Act). The benefits for asylum seekers who are no longer obliged to live in a reception facility may be paid out in cash benefits or provided as benefits in kind “where it is necessary according to the circumstances” (section 3 subs. 2 sentence 1 of the Asylum Seekers Benefits Act). The assessment is as a matter of principle within the remit of the Federal Länder. The Federal Länder make use of the latitude which this gives them to varying degrees: Baden-Württemberg has for instance stipulated that in follow-up accommodation “the statutory priority of benefits in kind [...] is corresponded to by accommodation and related benefits (e.g. heating, electricity, water) all being provided as benefits in kind. [...] The lower

reception authorities [i.e. the rural and urban districts] shall be free here to select between the other forms of benefit which appear to be expedient in humanitarian, economic and practical administrative terms” (Integrationsministerium Baden-Württemberg 2012: 8). Whether benefits are disbursed as cash or in the form of vouchers or benefits in kind is hence within the discretion of the local authorities. In contrast, the Free State of Bavaria provides that: “As long as beneficiaries are entitled or obliged to live in a reception facility, in an accommodation facility of the government reception facility or in a collective accommodation facility, the government shall grant the necessary requirements as to food, housing, heating, healthcare and body care and household durables and consumables for the household as benefits in kind” (section 13 subs. 1 of the Asylum Implementation Ordinance). Since permission to move out of the collective accommodation facility is contingent on comparatively stringent requirements in Bavaria (cf. Section 3.1), this gives rise to the de facto primacy of the principle of benefits in kind.

Irrespective of the extent to which in an individual case the benefits to cover the margin of subsistence are provided as benefits in kind or as cash money, the beneficiaries receive a monthly so-called pocket money “to cover personal daily requirements” (section 3 subs. 1 sentence 4 of the Asylum Seekers Benefits Act). Thereby the so-called pocket money serves to provide for the sociocultural subsistence.

Benefits for asylum seekers have not been adjusted since the Asylum Seekers Benefits Act was adopted in 1993. The Federal Constitutional Court ruled on 18 July 2012 that the amount of the cash benefits in accordance with section 3 of the Asylum Seekers Benefits Act was evidently insufficient. The Court reasoned its

judgment by stating that German and foreign nationals alike are entitled in accordance with Art. 1 para. 1 of the Basic law (GG) to a dignified minimum existence, which encompasses “both humans’ physical existence [...] and guaranteeing the possibility to maintain interpersonal relationships and a minimum of participation in social, cultural and political life”. The Court found that the definition of a dignified life was orientated not towards the conditions in refugees’ countries of origin, but towards those in Germany (Federal Constitutional Court 1 BvL 10/10, judgment of 18 July 2012). The legislature is hence obliged without undue delay to carry out transparent, comprehensible and realistic new calculations for asylum seekers’ cash benefits. Asylum seekers’ benefits have been provisionally changed with retroactive effect to 1 January 2011 to the amount of the benefits in accordance with

Book II of the Social Code¹⁰. The slightly lower rates when compared to the benefits in accordance with Book II of the Social Code stem from the fact that asylum seekers are already provided with household effects as benefits in kind, so that no expenses for acquisition and mending arise. The rates for 2012 and 2013 are shown in Table 5.

In addition to basic benefits, asylum seekers receive restrictively regulated healthcare because according to the wording of the act healthcare is limited to care for acute illnesses and pains. They only receive dental prostheses “where this appears to be imperative in individual cases for medical reasons” (section 4 subs. 1 of the Asylum Seekers Benefits Act). Despite this restrictive regulation, healthcare is de facto provided on the level of statutory health insurance, in particular as in individual cases “additional services” can be provided if they are essential for the health situation (section 6 subs. 1 of the Asylum Seekers Benefits Act).

10 The Social Code (Sozialgesetzbuch – SGB) Book II regulates basic security for job seekers in Germany. The benefits in accordance with Book II of the Social Code are financed from taxes and encompass amongst other things unemployment benefit II for persons of working age and social allowance for persons who are not of working age. The amount of these benefits is to cover the socio-cultural minimum existence. They are referred to as Hartz IV in common usage.

Table 5: Standard benefits for asylum seekers

Basis: standard need groups in accordance with the Standard Needs Calculation Act (RBEG)	Monthly benefits in 2012			Monthly benefits in 2013		
	Basic benefits to secure physical minimum existence (section 3 subs. 2 sentence 2 of the Asylum Seekers Benefits Act)	Amount of money to cover the socio-cultural minimum existence (section 3 subs. 1 sentence 4 of the Asylum Seekers Benefits Act, “pocket money”)	Benefits in accordance with section 3 of the Asylum Seekers Benefits Act; total	Basic benefits to secure physical minimum existence (section 3 subs. 2 sentence 2 of the Asylum Seekers Benefits Act)	Amount of money to cover the socio-cultural minimum existence (section 3 subs. 1 sentence 4 of the Asylum Seekers Benefits Act, “pocket money”)	Benefits in accordance with section 3 of the Asylum Seekers Benefits Act; total
Standard need group 1: Single or single-parent adults	212 €	134 €	346 €	217 €	137 €	354 €
Standard need group 2: Spouses and partners	191 €	120 €	311 €	195 €	123 €	318 €
Standard need group 3: adult household members	170 €	107 €	277 €	173 €	110 €	283 €
Standard need group 4: children aged from 15 to 18	192 €	79 €	271 €	193 €	81 €	274 €
Standard need group 5: children aged from 6 to 14	152 €	86 €	238 €	154 €	88 €	242 €
Standard need group 6: children aged up to 6	127 €	78 €	205 €	130 €	80 €	210€

Source: Ministry of Integration, Family, Children, Youth and Women Rhineland-Palatinate

4.2 Living conditions in asylum seekers' accommodation

The situation differs from one Federal Land to another as to the living conditions in asylum seekers' accommodation, as well as to the definition of standards. The Federal Länder have considerable latitude here too. For example, the Land Reception Acts of some Federal Länder contain general provisions on the design of asylum seekers' accommodation. In Hesse, for instance: "The rural districts and municipalities shall be obliged to accommodate the persons who are to be received in accordance with section 1 in accommodation which guarantees a dignified stay without health damage" (section 3 subs. 1 LAG). In Baden-Württemberg, the Refugees Reception Act already contains concrete provisions on the size of the minimum living area to be made available to asylum seekers (section 6

subs. 1 of the Refugee Reception Act, cf. also Table 6). The Saxony-Anhalt Reception Act recommends to the local authorities: "Where possible, preference should be given to providing accommodation in smaller collective accommodation facilities" (section 1 subs. 5 of the Saxony-Anhalt Reception Act). In addition to the general provisions contained in the relevant Land statutes, five Federal Länder have established binding rules for the operation of and the amenities provided in collective accommodation facilities, partly also for care. Table 6 provides an overview of the situation in the Federal Länder which stipulate such minimum standards.

Care

It is also necessary in care for asylum seekers to distinguish between the situation in the reception facilities and that in the facilities of follow-up accommodation.

Table 6: Reception standards in collective accommodation facilities

	Requirements for collective facilities	Requirements for living rooms/bedrooms and minimum space	Requirements for operation	Requirements for location and infrastructure	Requirements for qualification of the care staff
Baden-Württemberg section 6 subs. 1 of the Refugee Reception Act	no	4.5 m ² living/sleeping space per person	no	no	no
Bavaria Guidelines on the type, size and equipment of collective accommodation facilities for asylum seekers	yes	7 m ² living/sleeping space per person; no more than 4 (max. 6) residents per room; separation of the sexes; family rooms	yes	yes	yes
Berlin	yes	single rooms min. 9 m ² ; 6 m ² living/sleeping space per person; children aged up to 6 min. 4 m ² living space	yes	no	yes (for centre managers and social workers)
Brandenburg	yes	6 m ² living/sleeping space per person	yes	no	yes
Mecklenburg-West Pomerania Guideline on the operation of collective accommodation/ soc. care of residents 9/2000; Collective Accommodation Facility Ordinance 7/2001	yes	6 m ² living/sleeping space per person; no more than 6 residents per room; separation of the sexes	yes	yes	yes
Saxony Administrative Ordinance on Accommodation and Social Care 6/2009	Recommendation	Recommendation: 6 m ² living/sleeping space per person; no more than 5 residents per room; separation of the sexes	yes	Recommendation	yes (for centre managers)
Thuringia Thuringian Collective Accommodation and Social Care Ordinance 5/2010	yes	6 m ² living/sleeping space per person	yes	yes	yes

Source: Survey among the Länder via the Working Party of the Länder on Refugees and Integration

As to the situation in follow-up accommodation, a non-uniform picture emerges because the majority of the tasks are carried out within the remit of the local authorities.

Supervisory authorities

The conditions in the accommodation facilities are as a rule monitored by the respective Land Ministries, which as the highest reception authority are responsible for service supervision vis-à-vis the lower reception authorities. In some Federal Länder, the administrative regions are responsible as intermediate reception authorities for direct service supervision vis-à-vis the rural and urban districts.

4.3 Public debate about accommodation facilities

The accommodation of asylum seekers is one of the most highly political and polarised topics in German migration policy. The competent authorities consider themselves to be confronted in this field by a large number of in some cases contradictory expectations which pose considerable challenges as to the procurement, building and operation of asylum seekers' accommodation. With the growth in numbers of asylum seekers which has taken place since the mid-1970s, and the concomitant particular burdens as to reception capacities, both the accommodation and the ef-

Table 7: Supervision rates

Federal Land	Reception facility	Follow-up accommodation
Baden-Württemberg	Three staff members in the reception facility	Task of the local authority
Bavaria	7.41 full-time posts of the welfare associations in two reception facilities	Social care provided by the welfare associations. Supervision rate of 1 to 150 (No. 4.1 of the Asylum Social Counselling Guideline)
Berlin	No information	No information
Brandenburg	Supervision rate of 1 to 100 persons	Task for the local authorities
Bremen	No information	No information
Hamburg	Supervision rate of 1 to 100-150 persons	Supervision rate of 1 to 97 persons
Hesse	9 staff members each for social and childcare in the branches of the reception facility in Gießen, as well as at Frankfurt Airport	Task for the local authorities
Mecklenburg-West Pomerania	60 care hours per week for 600 places	Extent of care in collective accommodation facilities by key: daily care hours = capacity of the collective accommodation facility / 7
Lower Saxony	At the Friedland site, supervision rate of 1 to 100 persons, additional care offers by welfare associations	No information
North Rhine-Westphalia	No information	Task for the local authorities
Rhineland-Palatinate	No information	No information
Saarland	Three social care and care posts supported by the Land for 1,300 places in reception facilities and collective accommodation facilities. Additional social advice centre with psychological care and state-subsidised kindergarten	Follow-up accommodation is provided in a collective accommodation facility assigned to the reception facility. Social care provided for collective accommodation facilities and reception facilities together
Saxony	No information	No information
Saxony-Anhalt	No information	No information
Schleswig-Holstein	At least 7.5 carers in the initial reception facility/ central collective accommodation facility of the Land with a total of 400 places	No information available on the situation in the local authorities. In the central collective accommodation facility, social care is covered by the initial reception facility.
Thuringia	One full-time post in the reception facility, can be expanded where necessary	Task for local authorities

Source: Survey among the Länder via the Working Party of the Länder on Refugees and Integration, as per 2012

Table 8: Responsible supervisory authorities

Federal Land	Highest reception authority/supervisory authority	Intermediate reception authority/supervisory authority
Baden-Württemberg	Integration Ministry	Regional Commissioner's Offices
Bavaria (specialist supervision)	State Ministry of Labour, Social Affairs, Family and Women	Governments
Berlin	Senate Administration of Health and Social Affairs	
Brandenburg	Ministry of Labour, Women and Family; Interior Ministry Brandenburg	District commissioners
Bremen	Senator for Social Affairs, Children, Youth and Women	
Hamburg	Authority of the Interior and Sport	
Hesse	Social Affairs Ministry	Regional Commissioner's Offices
Mecklenburg-West Pomerania	Interior Ministry	Land Office of Internal Administration
Lower Saxony	Ministry of the Interior and Sport	
North Rhine-Westphalia	Interior Ministry	Regional administrations and district commissioners
Rhineland-Palatinate	No information	No information
Saarland	No information	No information
Saxony	State Ministry of the Interior	Regional Commissioner's Offices
Saxony-Anhalt	No information	No information
Schleswig-Holstein	No information	No information
Thuringia	No information	No information

Source: Land ordinances and statutes on the reception and material reception conditions of asylum seekers

forts to create new asylum seekers' accommodation have become a matter for policy-makers. The decision to distribute newly-arriving asylum seekers among the Federal Länder in the 1970s was in reaction to the growing numbers of arrivals and the tense accommodation situation which this created in what at that time was the only reception facility, the Zirndorf Federal Collection Camp. In particular the selection of the location for new collective accommodation and reception facilities met with resistance on the part of the local authorities. The public debate on the accommodation of asylum seekers is an aspect of the discussion on asylum policy, which peaked from the beginning of the 1980s (cf. Kreienbrink 2013).

The topic of the accommodation of asylum seekers also plays a role in the public debate on German asylum policy, which has arisen once more since 2012. This discussion was triggered by the numbers of asylum seekers in Germany, which rose considerably from 2012 onwards. The public perception focussed on

the longer duration of the asylum procedure and the costs which this caused for the public sector, also with regard to the accommodation of asylum seekers. It is possible to make out two positions here: On the one hand, refugees' initiatives and support groups, mostly from left-wing and church groups, are calling for asylum seekers to be accommodated in a "more humane" way, and in particular for the abolition of collective accommodation and the abolition of the principle of benefits in kind. These demands are embedded in major campaigns, which are partially accompanied by refugee protests and in which a more generous recognition practice and faster proceedings are also called for. As the rising numbers of new arrivals call for the creation of new capacities for the accommodation of asylum seekers, in some cases protests emerge on the part of local residents, business people and grassroots initiatives in the local areas which are considered as locations for new collective accommodation. In addition, xenophobic groups seek to profit from these protests (Alscher 2012; Grote 2013).

5 Flexibility

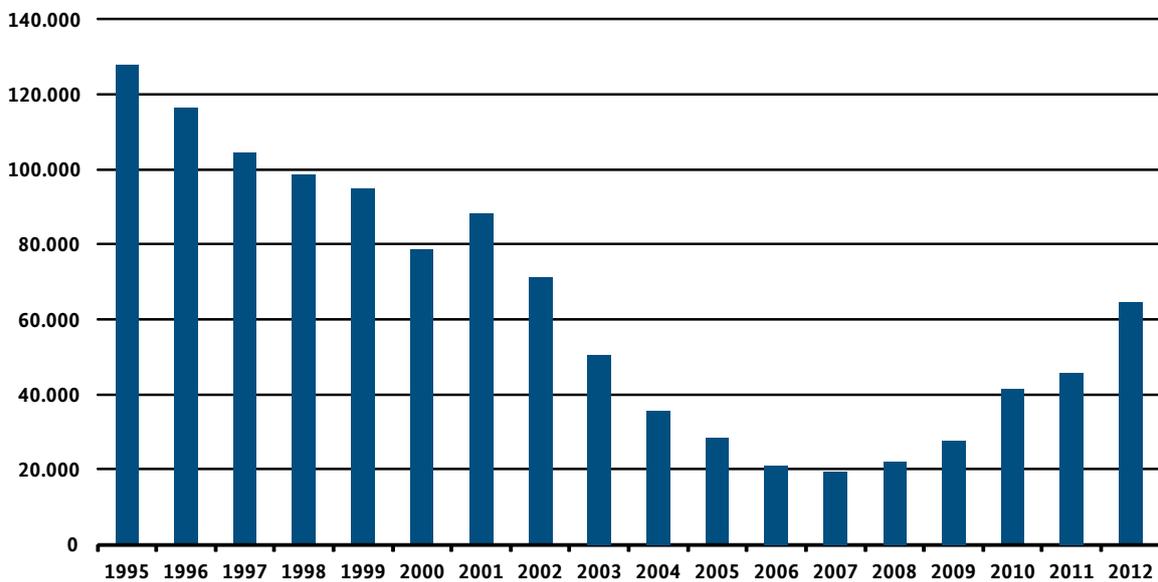
5.1 Reception capacities

Since the Federal Länder are obliged to receive asylum seekers who are assigned to them on the basis of the EASY system, reception is not orientated to the places available, but to the statutory reception quota (cf. Section 2.4). If the places in the reception facilities are not sufficient to accommodate the asylum seekers whom they must receive, the Federal Länder must either create additional places or shorten the period of residence in the reception facilities in order to create capacities for newly-arrived asylum seekers. As a rule, this means creating additional follow-up accommodation capacities as it is needed. Some mechanisms used by the Federal Länder for this are described in Section 5.3.

5.2 Pressure on the reception systems during 2008-2012

After the Federal Länder and the local authorities had reacted to the fall in numbers of asylum seekers between 1992 and 2007 by reducing the accommodation capacities, the increase in numbers of asylum seekers from 2008 onwards has left the Federal Länder with considerable, lasting challenges (cf. Figure 2). The increase in numbers of asylum seekers particularly affects the reception facilities. Accordingly, newly-arrived asylum seekers are as a rule already distributed to follow-up and temporary accommodation directly after filing an asylum application in order to create capacities for initial reception as quickly as possible.

Figure 2: Initial asylum applications 1995-2012



Source: BAMF (2013)

The distribution of the recipients of benefits in accordance with the Asylum Seekers Benefits Act among the individual types of accommodation can be seen in Table 9 and is illustrated in Figure 3. This however shows not only asylum seekers statistically, but the accommodation also includes other beneficiaries in accordance with the Asylum Seekers Benefits Act, such as persons who have been granted temporary suspension of deportation, persons whose obligation to leave the country is enforceable, as well as civil war refugees and the family members of such persons.

5.3 Mechanisms for accommodating rising numbers of asylum applicants

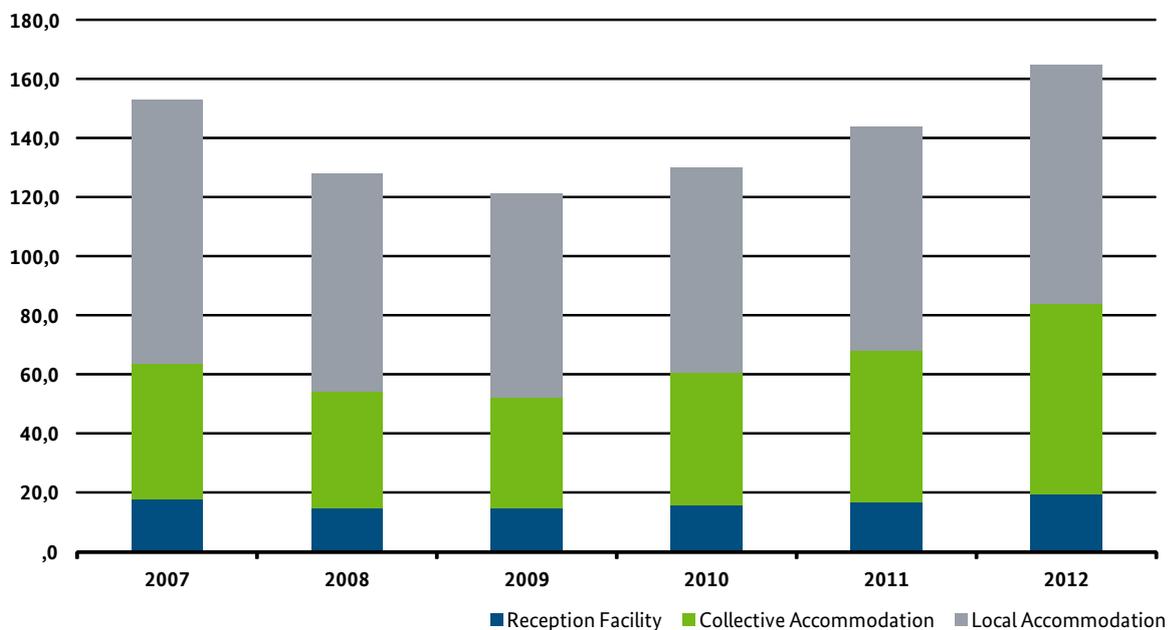
In order to enable the Federal Länder to forecast and plan the accommodation requirement, the Federal Office forwards on a regular basis the figures for initial asylum applications, as well as the distribution of asylum seekers among the Federal Länder and the prognosis in accordance with section 44 subs. 2 of the Asylum Procedure Act on developments and the accommodation place requirement.

Table 9: Recipients of benefits in accordance with the Asylum Seekers Benefits Act by type of accommodation as per 31 December (2007-2011)

	2007	2008	2009	2010	2011	2012
Reception facility	17,904	14,915	14,617	15,853	16,867	19,485
Collective accommodation facility	45,972	39,271	37,734	45,079	51,267	64,643
Local accommodation	89,424	73,679	68,884	69,365	75,564	81,116
Total	153,300	127,865	121,235	130,297	143,698	165,244

Source: Federal Statistical Office

Figure 3: Recipients of benefits in accordance with the Asylum Seekers Benefits Act by type of accommodation as per 31 December in thousands (2007-2011)



Source: Federal Statistical Office

A mechanism with which the Federal Länder and particularly the local authorities attempt to react to the challenges posed by the increased numbers of asylum seekers and to enable the reception systems to act with a certain amount of flexibility is to increasingly commission non-state providers with both accommodation and care. A special role attaches to the welfare associations here. Additionally, accommodation in housing containers and in individual houses or flats is increasingly being used in place of collective accommodation facilities.¹¹ Exceptional regulations also apply in individual cases which make it permissible to achieve less than the accommodation standards for a

time.¹² This makes it possible to guarantee accommodation at least for the short term when there is a considerable increase in the number of new arrivals.

11 Information provided by telephone by Brandenburg Ministry of Labour, Women and Family regarding a query among Länder conducted by Brandenburg, 21 June 2013.

12 Information provided by Baden-Württemberg Ministry of Integration, 27 June 2013.

6 Conclusions

Accommodation is provided to asylum seekers in Germany in a two-tier procedure reflecting the legal and executive distribution of responsibility between the Federation and the Länder. In order to ensure that the financial costs involved with the reception of asylum seekers are spread evenly, a quota system was created based on population size and tax revenue which allocates newly-arrived asylum seekers to the reception facilities of the Federal Länder. Since asylum seekers are obliged as a matter of principle to live while applying for asylum in a reception facility to which in turn a branch office of the Federal Office for Migration and Refugees is assigned, the reception facilities are a major organisational interface in the German reception system. The places that are available in the reception facilities can only be expanded to a limited degree, whilst the creation of new reception facilities requires considerable political and administrative effort since new structures would need to be created at both federal and Land level. In this respect, the Federal Länder consider the rapid further distribution of asylum seekers to local authorities to constitute the only short-term viable option within the current asylum system.

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List of abbreviations

EASY	Initial distribution of asylum applicants
ERF	European Refugee Fund

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