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The multi-level interplay in asylum politics

The case of the Christian asylum seekers from Turkey
in West Germany in the early 1980s

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List of Abbreviations

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| AA | Federal Ministry of Foreign Affairs (Auswärtiges Amt) |
| ARB | ‘Meeting of authorised experts in matters concerning foreigners’ (Ausländerreferentenbesprechung) |
| BAFI | Federal Office for the Recognition of Foreign Refugees (Bundesamt für die Anerkennung ausländischer Flüchtlinge) |
| BKAmt | Chancellery (Bundeskanzleramt) |
| BMI | Federal Ministry of the Interior (Bundesinnenministerium) |
| BVerwG | Federal Administrative Court (Bundesverwaltungsgericht) |
| CDU/CSU | Christian Democratic Union of Germany/Christian Social Union in Bavaria |
| EC | European Community |
| FDP | Free Democratic Party of Germany |
| IMK | Conference of Interior Ministers (Innenministerkonferenz) |
| MP/MdB | Member of Parliament (Mitglied des Deutschen Bundestages) |
| MPK | Conference of Minister-Presidents (Ministerpräsidentenkonferenz) |
| NGO | Non-governmental organisation |
| SPD | Social Democratic Party of Germany |
| UNHCR | United Nations High Commissioner for Refugees |
| VG | Administrative Court (Verwaltungsgericht) |
| VGH | Higher Administrative |

1. The contentious case of the Christian asylum seekers from Turkey

The entrance, admission and rejection of asylum seekers are policy issues that have been highly polarised and politicised in the European public since the 1970s. They have raised questions about the universality of human rights, the competences and boundaries of state sovereignty, the foundations and trans-formations of identity, the inclusive- and exclusive-ness of member- and citizenship, and the causes of global inequalities. Due to the value-laden nature of these questions, asylum and migration have been disputed in politics and society. This thesis looks into one specific case of asylum seekers and the contention surrounding them from a governance perspective, focusing on interdependencies between various stakeholders in West German politics¹.

In the late 1970s and beginning of the 1980s, Turkish asylum seekers belonging to Christian minorities entered West Germany, claiming political persecution born out of political unrest and socio-ethical conflicts in Turkey. The issue of asylum-seeking became increasingly politicised in the wider context of the both countries' socio-cultural, political and economic entanglements, the rising numbers of asylum seekers in West Germany, the end of the Turkish-West German guestworker programme (1973) and the recession following the oil crisis from 1973. In West Germany, the entrance and perception of asylum seekers was deeply connected to the historical-moral responsibility for refugees, the limited reception capacities and the narrow definition of political persecution. In 1980 the number of asylum seekers peaked in 100.000 applicants of which half of them were Turkish applicants, giving arise to increasing political pressure to limit the incoming numbers. Yet, after five years, the stay of rejected Christian asylum seekers from Turkey was legalised through a generously applied hardship regulation. Thus, this research is interested in why and how this group of asylum seekers became a contested case in the Federal Republic of Germany, specifically examining the roles, positions and reasoning of governance actors involved.

Looking into such a specific case example of asylum seekers and the respective policies reveals important insights into the dynamics of asylum politics. Such a micro-level analysis can observe political decision-making processes, including the influence of state, non- and semi-state actors², and can help to test and to revise theories explaining the nature

¹ Schneider, Jan, *Modernes Regieren und Konsens. Kommissionen und Beratungsregime in der deutschen Migrationspolitik* (Wiesbaden 2010), 33.

² A good overview of actors in asylum policies gives Müller, Doreen, *Flucht und Asyl in europäischen Migrationsregimen. Metamorphosen einer umkämpften Kategorie am Beispiel der EU, Deutschlands und Polens* (Göttingen 2010), 146-150.

of asylum policies³. Here the focus is on the multi-level interplay between the societal, intergovernmental and federal spheres, that comprise the three main stakeholders involved in the case of Christian asylum seekers from Turkey. To analyse their interplay, I will draw on primary sources from the federal archives, particularly from the German Federal Ministry of the Interior, which contains a collection of files specifically dealing with Turkish Christian asylum seekers.

1.1. Theoretical framework

How can we explain why the Christian asylum seekers from Turkey have become a contentious case for the Federal Ministry of the Interior? Very prominent for more than two decades has been James Hollifield's gap hypothesis⁴, which Philip Martin, Wayne Cornelius and he further developed. The hypothesis accounts for the gap between immigration goals and results caused by "right-based liberalism"⁵. This theory was further popularised by the political sociologist Christian Joppke, who put forward the popular question "why liberal states accept unwanted immigration?"⁶. Many authors have since worked with the gap theory, testing, altering, expanding and critiquing it. This theoretical framework provides a good base for this thesis too, because there was a gap between rejecting Christian asylum seekers from Turkey yet eventually granting permanent residence. I will work with four main concepts under the umbrella of the gap hypothesis. First, the case of Christian asylum seekers from Turkey was disputed in West Germany because of the liberal paradox linked to the morality at stake. Secondly, they were contested because of the impracticability of restrictive policies and vague asylum laws. Thirdly, their social class determined their final admission. Fourthly, the plurality of actors in the federal system caused the dispute.

First, the liberal paradox explains the gap between nation-states' restrictive immigration policies and the admission of undesired migrants⁷. While liberal states are morally obliged to follow democratic principles and committed to universal human rights, they receive legitimacy through stable membership relations, which necessitates controlling the

³ Schneider, *Modernes Regieren und Konsens*, 32.

⁴ Hollifield, James F., 'Immigration Policies in France and Germany: Outputs vs. Outcomes', *Annals of the American Academy of Political and Social Science* 485:1 (1986) 113-128.

⁵ Cornelius, Wayne A., Martin, Philip L. and Hollifield, James F., 'Introduction. The ambivalent quest for immigration control', in: Cornelius, Wayne A., Martin, Philip L. and Hollifield, James F. (eds.), *Controlling Immigration. A global perspective* (Stanford 1994) 3-41, 9-11.

⁶ Joppke, Christian, 'Why Liberal States Accept Unwanted Immigration', *World Politics* 50:2 (1998) 266-293.

⁷ Also called legitimation paradox, Adam, Ilke, 'Immigration and sub-state nations: researching the nexus', in: Klaus Detterbeck and Eve Hepburn (eds.), *Handbook of Territorial Politics* (Cheltenham, Northampton 2018), 261-277, 272.

entrance of non-members⁸. According to Joppke, the Federal Republic has self-limited its sovereignty through the Basic Law, in particular the right of asylum⁹, and the judiciary which seemed to expand the universal rights of foreigners in the Republic¹⁰. However, the country still pursued “non-immigration country” policies in the twentieth century¹¹. The dispute over the admission of Christian asylum seekers from Turkey exemplifies this liberal paradox. On the one hand, West Germany was bound to international and domestic norms and its moral historical responsibility. Hence, admission was granted to this group in order not to lose its reputation as a liberal democracy by executing deportations¹². On the other hand, the legacy of the Nazi-regime had declined, the Federal Republic had proven of its commitment to democratic principles¹³, and a reawakening of nativism as part of the German national identity “threatened by foreign infiltration” was less opposed¹⁴. Therefore, the Christian asylum seekers from Turkey could be rejected.

Secondly, the case of Christian asylum seekers from Turkey was disputed because of the difficulties surrounding the interpretation of the asylum law and the impracticability of strict asylum policies. Interpreting the broad right of asylum as manifested in the Basic Law (Grundgesetz) has been difficult historically¹⁵. “Political persecution” has not been specified in the Basic Law, which has been the reason why a variety of conflicting opinions

⁸ Joppke, Christian, ‘Asylum and State Sovereignty’, *Comparative Political Studies* 30:3 (1997) 259-298, 260; Cornelius, Martin and Hollifield, ‘Introduction’, 9-11.

⁹ Joppke, ‘Why Liberal States Accept Unwanted Immigration’, 283f.; Joppke, ‘Asylum and State Sovereignty’, 273.

¹⁰ Bonjour, Saskia, ‘Speaking of Rights: The Influence of Law and Courts on the Making of Family Migration Policies in Germany’, *Law & Policy* 38:4 (2016) 328-348, 329f.; Joppke, ‘Why Liberal States Accept Unwanted Immigration’, 271.

¹¹ Poutrus, Patrice G., ‘Asylum in Postwar Germany: Refugee Admission Policies and Their Practical Implementation in the Federal Republic and the GDR Between the Late 1940s and the Mid-1970s’, *Journal of Contemporary History* 49:1 (2014) 115-133, 133; Jung, Matthias, Niehr, Thomas and Böke, Karin, *Ausländer und Migranten im Spiegel der Presse. Ein diskurshistorisches Wörterbuch zur Einwanderung seit 1945* (Wiesbaden 2000), 25; Bade, Klaus J., ‘Zur Karriere und Funktion abschätziger Begriffe in der deutschen Asylpolitik’, *Aus Politik und Zeitgeschichte* 65:25 (2015), 3.

¹² Poutrus, ‘Asylum in Postwar Germany’, 132; Bendix, John and Steiner, Niklaus, ‘Political Asylum in Germany: International Norms and Domestic Politics’, *German Politics and Society* 16:2 (1998) 32-49, 33, 46-48.

¹³ Oltmer, Jochen, *Migration im 19. und 20. Jahrhundert* (München 2013), 55; Poutrus, ‘Asylum in Postwar Germany’, 130-133.

¹⁴ “Gefahr vor Überfremdung”, Marx, Reinhard, ‘Vom Schutz vor Verfolgung zur Politik der Abschreckung: Zur Geschichte des Asylverfahrensrechts in der Bundesrepublik Deutschland’, *Kritische Justiz* 18:4 (1985) 379-395, 388f., 391, 394; Green, Simon, ‘Immigration, asylum and citizenship in Germany: The impact of unification and the Berlin republic’, *West European Politics* 24:4 (2001) 82-104, 90; Bosswick, Wolfgang, ‘Development of Asylum Policy in Germany’, *Journal of Refugee Studies* 13:1 (2000) 43-60, 47, 57.

¹⁵ The same applies to interpreting the Geneva Refugee Convention from 1951. In the early 1980s, the Convention was rarely used to get a protection status due to jurisprudence assessing that the Basic Law was more comprehensive in comparison to the Convention, Tiedemann, Paul, *Flüchtlingsrecht: Die materiellen und verfahrensrechtlichen Grundlagen* (Heidelberg 2015), 10f.; Marx, Reinhard, *Ausländergesetz. Rechtsprechungssammlung zum Asylrecht mit Erläuterungen* (Baden-Baden 1984), 545.

and theories emerged, resulting in a divided judiciary¹⁶ and many rejections¹⁷. However, expulsion of rejected asylum seekers was impeded through the non-refoulement principle as stated in the 1951 Refugee Convention, which forbids to repatriate anyone fearing a threat to life or physical condition in other countries. Hence, seemingly strict asylum policies turned out void¹⁸. Thus, we can infer that implementing strict asylum policies was considered impractical. Together with legal difficulties in interpreting the asylum law, this opened up room for manoeuvre handling strict policies and yet practicing humanitarian admission¹⁹. Therefore, the combination of strict yet void asylum policies and the difficulty of interpreting the right of asylum could have caused the gap between rejecting the Christian asylum seekers yet legalising their stay in the long run.

Thirdly, the selective admission and rejection of migrants can be explained with their social class. Social class is composed of aspects which are subject to ascribed meanings from others, such as age, gender, race, education etc.²⁰. The consideration of social class is influenced by economic rationales, including the migrants' economic value for the host society, "often in combination with foreign policy or security concerns and institutional (judiciary) constraints", and cultural rationales focussing on "(national) identity, belonging, and cultural differentiation between migrants and the native population"²¹. On the one hand, the social class of the Christian asylum seekers from Turkey was positively constructed along the lines of Christian "brothers and sisters" fleeing from religious persecution who were very capable of integrating well into the host society – hence deserving protection²². On the other hand, their social class indicated that they came for economic reasons trying to find a better life in the Federal Republic. Seemingly, they abused the right of asylum and family regulations in order to gain admission – thus being undeserved to remain in West Germany²³. So the different perceptions of their social class contributed to the contention of their case.

Fourthly, the case of the Christian asylum seekers from Turkey was contested for internal reasons, because of the "internal plurality or fragmentation of states" and the role of

¹⁶ Marx, Reinhard, *Eine menschenrechtliche Begründung des Asylrechts. Rechtstheoretische und -dogmatische Untersuchungen zum Politikbegriff im Asylrecht* (Baden-Baden 1984), 15f., 177, 197.

¹⁷ Poutrus, 'Asylum in Postwar Germany', 120.

¹⁸ Bendix and Steiner, 'Political Asylum in Germany', 47.

¹⁹ Walaardt, Tycho, *Geruisloos inwilligen. Argumentatie en Speelruimte in de Nederlandse Asielprocedure, 1945-1994* (Leiden 2012), 179-181, 310, 322-327.

²⁰ Regine Paul (2015, 29) in Bonjour, Saskia and Chauvin, Sebastien, 'Social Class, Migration Policy and Migrant Strategies: An Introduction', *International Migration* 56:4 (2018) 5-18, 9f.

²¹ *Ibid.*, 6.

²² Walaardt, *Geruisloos inwilligen*, 325f.

²³ Poutrus, 'Asylum in Postwar Germany', 130; Bade, 'Karriere und Funktion abschätziger Begriffe', 9f.; Kreienbrink, Axel, '60 Jahre Bundesamt für Migration und Flüchtlinge im Kontext der deutschen Migrationspolitik', *Zeitschrift für Ausländerrecht und Ausländerpolitik* 11:12 (2013) 397-410, 402; Nuscheler, Franz, *Internationale Migration. Flucht und Asyl* (Opladen 1995), 114.

the different actors as well as their material and immaterial interests²⁴. These multiple actors struggled over the “interpretation of reality” with regards to their case²⁵. The diverging and conflicting interests were very visible at the different federal levels²⁶. The Christian minorities could have been rejected because the counties opted for restrictive asylum policies as they had to handle accommodation and integration²⁷, and because the federal states tried to minimise their burdens and duties. Yet, their stay could have been legalised because the national government had to balance pragmatic solutions and legal obligations according to the Basic Law²⁸. Therefore a “complex interplay of institutions, norms, arguments, identity and actions”²⁹ was at stake, which forced the government to create consensus in the federal system as well as in society³⁰.

Apart from these four main hypotheses, another possible explanation could be the recession following the oil crisis in 1973 which accelerated the housing shortage, increased unemployment and cut public budgets³¹. Immigrants were perceived as threatening the welfare state and the individual’s futures³². In addition, the need for preserving international relations³³ with Turkey contributed to the dispute over the Christian asylum seekers³⁴. Turkey was an important NATO Partner in the Cold War politics, member of the Council of

²⁴ Material interests are concerned with the “labor market, housing policies, social security, public order and social cohesion” and immaterial interests are connected to “ideas, ideology and moral considerations” Bonjour, Saskia, ‘The Power and Morals of Policy Makers: Reassessing the Control Gap Debate’, *International Migration Review* 45:1 (2011) 89-122, 117, quote: 115; See also Bonjour, Saskia, *Grens en gezin. Beleidsvorming inzake gezinsmigratie in Nederland, 1955-2005* (Amsterdam 2009), 324.

²⁵ *Ibid.*, 18f.

²⁶ Ten federal states formed the West German Republic (Baden-Württemberg, Bayern, Bremen, Hamburg, Hessen, Niedersachsen, Nordrhein-Westfalen, Rheinland-Pfalz, Saarland, Schleswig-Holstein). Each federal state was administratively subdivided in counties. Münch, Ursula, ‘Asylpolitik – Akteure, Interessen, Strategien’, in: Stefan Luft and Paul Schimany (eds.), *20 Jahre Asylkompromiss. Bilanz und Perspektiven* (Bielefeld 2014) 69-86, 72, 74; Sturm, Robert, ‘Zusammenarbeit im deutschen Föderalismus’, *Bundeszentrale für politische Bildung: Föderalismus in Deutschland*. 3 May 2013, <http://www.bpb.de/izpb/159339/zusammenarbeit-im-deutschen-foederalismus?p=all> (30-04-2019).

²⁷ Münch, Ursula, *Asylpolitik in der Bundesrepublik Deutschland. Entwicklung und Alternativen* (Opladen 1992), 128-137.

²⁸ Münch, *Asylpolitik in der Bundesrepublik*, 142-146.

²⁹ Bendix and Steiner, ‘Political Asylum in Germany’, 34.

³⁰ Schneider, *Modernes Regieren und Konsens*, 61, 66.

³¹ Bade, ‘Karriere und Funktion abschätziger Begriffe’, 4; Kannankulam, John, ‘Kräfteverhältnisse in der bundesdeutschen Migrationspolitik: Die Asyldebatte als Schlüsselereignis des schwerfälligen Wandels vom Gastarbeitsregime hin zu Managed Migration in der Bundesrepublik Deutschland’, in: Staatsprojekt Europa (ed.), *Kämpfe um Migrationspolitik: Theorie, Methode und Analysen kritischer Europaforschung* (Bielefeld 2014), 100; Poutrus, ‘Asylum in Postwar Germany’, 131; Jung, Niehr and Böke, *Ausländer und Migranten*, 21.

³² Bade, ‘Karriere und Funktion abschätziger Begriffe’, 4; Münch, *Asylpolitik in der Bundesrepublik*, 185-187.

³³ This is what Foreign Affairs in general are concerned with, Walaardt, *Geruisloos inwilligen*, 324.

³⁴ Münch, *Asylpolitik in der Bundesrepublik*, 187.

Europe, and associated with the European Community³⁵. From a diplomatic perspective, investigating human rights abuses in the Turkish state would insult the ally³⁶.

1.2. Historiography

Analysing the multi-level interplay in asylum politics integrates the fields of historical research, refugee and migration studies as well as social and political science.

Migration, asylum procedure and refugee movements are widely researched throughout the history of the Federal Republic of Germany. Until today the works of Klaus J. Bade, Franz Nuscheler and Ursula Münch written in the 1990s form the basic literature on the historical developments in migration and asylum policies from 1949 to 1993³⁷. Additionally, there is a large body of literature on immigration law³⁸. Looking specifically into migration from Turkey to Germany, integration is a central topic in academic research, alongside the history of the guestworker generation and transnational connections³⁹. Christian minorities from Turkey have mostly been studied⁴⁰ as part of the history of the Christian church⁴¹, but there are also anthropological works focusing on identity issues of the group in the diaspora⁴². Literature that deals with Christian minorities who have fled into West Germany in the 1970s to 1990s concentrates often on the Syrian-Orthodox minority. Particular, the dissertation of Kai Merten provides a good ecclesiastical historical overview on the situation of

³⁵ Szatkowski, Tim, *Die Bundesrepublik Deutschland und die Türkei: 1978 bis 1983* (Berlin 2016), 30.

³⁶ For example, the Federal Ministry of Foreign Affairs advised the government not to “identify” with a report assessing persecution of Christian minorities in Turkey from the Evangelischer Pressedienst published in November 1979 which was “celebrated” by Greece. The ministry expected a “sharp reaction” from the Turkish government and warned to endanger the credibility of the German policies targeting the Eastern Mediterranean. Hereby, preserving neutrality was essential, BA, BKAm, B 136-16707, Abteilung 203 Vermerk, 10-12-1979. See also Münch, *Asylpolitik in der Bundesrepublik*, 188-192.

³⁷ Bade, Klaus J., *Ausländer – Aussiedler – Asyl. Eine Bestandsaufnahme* (München 1994); Nuscheler, *Internationale Migration*; Münch, *Asylpolitik in der Bundesrepublik*.

³⁸ See an overview in Eule, Tobias G., *Inside immigration law: migration management and policy application in Germany* (Farnham, Surrey, 2014), 11.

³⁹ A good overview of this field is given in Griese, Hartmut M., ‘40 Jahre Migrationsforschung in Deutschland: Ein autobiographischer Rückblick nach vorne’, in: Barbara Pusch (ed.), *Transnationale Migration am Beispiel Deutschland und Türkei* (Wiesbaden 2013) 29-47, 30-44.

⁴⁰ Older research from the 1970s and 1980s: Anschütz, Helga, *Die Syrischen Christen vom Tur ‘Abdin: Eine altchristliche Bevölkerungsgruppe zwischen Beharrung, Stagnation und Auflösung* (Würzburg 1985); Yonan, Gabriele, *Assyrer Heute: Kultur, Sprache, Nationalbewegung der aramaisch sprechenden Christen im Nahen Osten: Verfolgung und Exil* (Hamburg 1978).

⁴¹ See Walter Strümper, *Die Syrisch-Orthodoxe Kirche in der Zeit: ein Grundriss der Geschichte der Syrisch-Orthodoxen Kirche* (Warburg 2009); Thomas Bremer, Assaad Elias Kattan und Reinhard Thöle (eds.), *Orthodoxie in Deutschland* (Münster 2016); A different perspective provides linguist Talay, Shabo, ‘Mit-, Neben- und Gegeneinander. Zum Zusammenleben von Christen und Muslimen in Ostanatolien’, *Der Islam* 88:1 (2012) 158-178.

⁴² Jonker, Gerdien (ed.), *Kern und Rand. Religiöse Minderheiten aus der Türkei in Deutschland* (Berlin 1999).

this group in Turkey and West Germany⁴³. His work also includes their asylum procedures and lists the arguments put forward by different actors, which is highly relevant for this thesis. In the Dutch context, Tycho Walaardt's publications examine, from a historical perspective, the perception, reception and admission of Christian Turkish asylum seekers, and the influence of civil society on their asylum procedures in the Netherlands⁴⁴. Naures Atto applies a historical anthropological approach to analyse the identity discourse of the Syrian-Orthodox minority in Sweden⁴⁵. The Netherlands, Sweden and West Germany were the main destinations countries of the Christian minorities from Turkey in Europe⁴⁶. While identity issues of this group received a lot of scholarly attention, a governance perspective has been rarely taken. Analysing their case from a governance angle broadens the understanding of the making of asylum policies for this minority group and sheds light on the advocacy of certain actors involved. Overall, this paper reveals insights on positions, arguments and strategies of governance stakeholders in asylum policies with regards to minority groups in general.

Regarding the interplay in asylum politics there is a broad field of literature examining the dynamics of migration politics in Germany, in the European Union and between different countries⁴⁷. Within the large literature on governance of migration⁴⁸, my study will add to the research on multi-level governance. Although in the early 1980s we cannot yet speak of a "dispersion of authority away from the nation state and across interdependent, and yet autonomous, public authorities and non-public organisations placed at different levels of government", the approach of different types of interactions across various levels involved in policy-making is useful for the analysis of the interplay in the case of the Christian asylum seekers from Turkey⁴⁹. For my research there are three important works dealing

⁴³ Merten, Kai, *Die syrisch-orthodoxen Christen in der Türkei und in Deutschland. Untersuchungen zu einer Wanderbewegung* (Hamburg 1997).

⁴⁴ Walaardt, Tycho, 'From heroes to vulnerable victims: labelling Christian Turks as genuine refugees in the 1970s', *Ethnic and Racial Studies* 129:1 (2013) 1199-1218; Walaardt, *Geruisloos inwilligen*.

⁴⁵ He also gives an overview of the literature on Syrian-Orthodox Christians in Sweden Atto, Naures, *Hostages in the homeland, orphans in the diaspora. Identity discourses among the Assyrian/Syriac elites in the European diaspora* (Leiden 2011), 27-30.

⁴⁶ Atto, *Hostages in the homeland*, 22f.

⁴⁷ Inter alia Scholz, Antonia, *Migrationspolitik zwischen moralischem Anspruch und strategischem Kalkül* (Wiesbaden 2012); Bendix and Steiner, 'Political Asylum in Germany', 32-49; Müller, *Flucht und Asyl in europäischen Migrationsregimen*.

⁴⁸ Some of the newest publications in the governance literature: Caponio, Tiziana, Scholten, Peter and Zapata-Barrero, Ricard (eds.), *The Routledge handbook to the governance of migration and diversity in cities* (London 2019) and Detterbeck, Klaus and Hepburn, Eve (eds.), *Handbook of Territorial Politics* (Cheltenham, Northampton 2018).

⁴⁹ Adam, Ilke and Caponio, Tiziana, 'Research on the Multi-Level Governance of Migration and Migrant Integration. Reversed pyramids', in: Agnieszka Weinar, Saskia Bonjour and Lyubov Zhyznomirska (eds.), *The Routledge Handbook of the Politics of Migration in Europe* (London 2018), 26-37, quote: 26, 27, 32.

with asylum policies in West Germany from a historical perspective. Jan Schneider's governmental analysis of "politics of migration policy" focuses on consultancy regimes and their influence in decision-making processes since 1949⁵⁰. Tim Szatkowski's historical research on international relations between Germany and Turkey examines the interplay of Foreign Affairs with migration policies 1978-1983⁵¹. And lastly, Ursula Münch's publication assesses asylum policies in the federal system until 1992⁵². In general, governance in migration politics between Foreign and Inner Affairs⁵³, as well as the federal system are well researched but not necessarily from a historical angle. Especially, the historical role of the Federal Office for the Admission of Foreign Refugees (BAFI), one of the central players in asylum matters, is under researched⁵⁴. Presumably due to the lack of officially archived material⁵⁵. My research will add to this literature a historical micro-level analysis of a particular case of asylum seekers within the policy area of asylum politics. The micro-level study encompasses different political levels, including the federal and intergovernmental spheres that have not been researched in conjunction so far. In this framework, stakeholders and their claims can be identified and their relational position in asylum politics can be mapped and analysed⁵⁶. Thus, the micro-perspective is helpful to expand our understanding of the complex dynamics of migration policies.

⁵⁰ An overview of the governance literature can also be found in Schneider, *Modernes Regieren und Konsens*, 3-33.

⁵¹ Szatkowski, *Die Bundesrepublik Deutschland*. Further literature dealing with German-Turkish relationships including asylum policies: Weick, Curd-Torsten, *Die schwierige Balance: Kontinuitäten und Brüche deutscher Türkeipolitik* (Münster, Hamburg 2001) and Refflinghaus, Alexander, *Deutsche Türkeipolitik in der Regierungszeit Helmut Kohls, 1982 bis 1998: Regierung, Bundestag, Presse* (Berlin 2002).

⁵² Münch, *Asylpolitik in der Bundesrepublik*. Further research on the federal level: Thränhardt, Dietrich, 'Zuwanderungs- und Integrationspolitik in föderalistischen Ländern', in: Lale Akgün and Dietrich Thränhardt (eds.), *Integrationspolitik in föderalistischen Systemen* (Münster 2001) 15-34; Hörisch, Felix, 'Asylpolitik im Bundesländervergleich: Eine fuzzy-set Qualitative Comparative Analysis', *Zeitschrift für Vergleichende Politikwissenschaft* 12:4 (2018) 783-803. Policy making in asylum politics on a regional level, Eule, *Inside immigration law*; Schammann, Hannes, 'Wenn Variationen den Alltag bestimmen. Unterschiede lokaler Politikgestaltung in der Leistungsgewährung für Asylsuchende', *Zeitschrift für Vergleichende Politikwissenschaft* 9:3 (2015) 161-182.

⁵³ Wendekamm, Michaela, *Die Wahrnehmung von Migration als Bedrohung. Zur Verzahnung der Politikfelder Innere Sicherheit und Migrationspolitik* (Wiesbaden 2015).

⁵⁴ There are valuable anthropological and sociological works, inter alia Scheffer, Thomas, *Asylgewährung: Eine ethnographische Analyse des deutschen Asylverfahrens* (Stuttgart 2001); Schittenhelm, Karin and Schneider, Stephanie, 'Official standards and local knowledge in asylum procedures: decision-making in Germany's asylum system', *Journal of Ethnic and Migration Studies* 43:10 (2017) 1696-1713.

⁵⁵ The BAFI rarely handed any files to the federal archives which makes historical work much more difficult since the material is neither publicly available nor sorted in any way. There are articles written by (former) staff of the ministry, e.g. Axel Kreienbrink, '60 Jahre Bundesamt für Migration und Flüchtlinge', 397-410.

⁵⁶ This approach is promoted by various scholars, because gaining an "[i]nsight in the dynamics of policy making requires mapping out the actors involved, the positions they have adopted, and their relative influence on the policy outcomes." Bonjour, 'The Power and Morals of Policy Makers', quote: 117, and similarly stated in her earlier work, Bonjour, *Grens en gezin*, 340.

Apart from political actors participating in asylum policymaking, the role of the civil society is analysed in this research. The influence of civil society in asylum policies in Germany has not been researched extensively from a historical perspective⁵⁷. Noteworthy are Albert Peter Rethman's work⁵⁸, looking at the role of churches from the mid-1980s to the 1990s, as well as Michael Minkenberg's study of the interplay of party politics and churches within immigration policy⁵⁹. My analysis will add to this literature, revealing the composition, strategies and position of refugee support groups in asylum politics. In addition, this research complements research on the impact of the justice system in Germany's immigration policies, discussed inter alia by Christian Joppke⁶⁰, Saskia Bonjour⁶¹ and Rebecca Hamlin with Hillary Mellinger⁶². These scholars agree that the judiciary plays an important role in asylum politics but have not reached consensus as to what extent courts actually impact migration policies. This may be due to the existence of multiple subfields of immigration policies whereby the judicial influence varies instead of being coherent. In this work, the meaning that the various actors in asylum politics attribute to the courts which will be examined. Since their external reputation and perceived influence on the sub-case of Christian asylum seekers from Turkey is looked into, a constructivist view on courts as "makers of social meaning"⁶³ is taken. By choosing a micro-level analysis of asylum politics within the Federal Ministry of the Interior, my research complements the existing literature on intergovernmental, federal and societal interactions in immigration politics as well as on the governance of migration in general.

1.3. Material and Method

The German federal archives collect files of the Federal Ministry of the Interior (BMI) specifically dealing with the case of Christian applicants from Turkey. Using the online catalogue of the archive, combining the keywords Asyl (asylum), Christ* (Christ*) and Türk*

⁵⁷ Inter alia: Rucht, Dieter and Heitmeyer, Wilhelm, 'Mobilisierung von und für Migranten', in: Roland Roth and Dieter Rucht (eds.), *Die Sozialen Bewegungen in Deutschland seit 1945: Ein Handbuch* (Frankfurt a.M. 2008) 573-592 and Kirchhoff, Maren and Lorenz, David, 'Between Illegalization, Toleration, and Recognition: Contested Asylum and Deportation Policies in Germany', in: Sieglinde Rosenberger, Verena Stern, Nina Merhaut (eds.), *Protest Movement in Asylum and Deportation* (Open access 2018) 49-68.

⁵⁸ Albert Peter Rethmann, 'Kirchliche Stellungnahmen zur Asyl- und Migrationspolitik', *Jahrbuch für Christliche Sozialwissenschaften* 35 (1994), 189-209.

⁵⁹ Minkenberg, Michael, 'Religious Legacies, Churches, and the Shaping of Immigration Policies in the Age of Religious Diversity' *Politics and Religion* 1:3 (2008) 349-383.

⁶⁰ Joppke, 'Why Liberal States Accept Unwanted Immigration', 266-293.

⁶¹ Bonjour mentions also Leila Kawar's book *Contesting Immigration Policy in Court* (2015), Bonjour, 'speaking of Rights', 331.

⁶² Hamlin, Rebecca and Mellinger, Hillary, 'The Role of Courts and Legal Norms', in: Agnieszka Weinar, Saskia Bonjour, Lyubov Zhyznomirska (eds.), *The Routledge Handbook of the Politics of Migration in Europe* (London 2018) 99-108.

⁶³ Bonjour, 'speaking of Rights', 330.

(Turk*) and narrowing the results to 1979-1985, I received nine hits⁶⁴. Seven files belong to a series on “Christians from Turkey”⁶⁵, one contains material on the situation in Turkey 1980-1981⁶⁶, and another one is concerned with Turkish citizens of Christian and Yezidi faith⁶⁷. They are all interconnected since documents refer to each other or are stored multiple times. In addition, documents of a file from the chancellery from 1979-1980⁶⁸ will be taken into consideration wherever a connection to the BMI is prevalent. The files contain a variety of different letters, protocols, jurisprudence and newspaper articles⁶⁹, resolutions, reports and general correspondence of which 365 documents have been used for this research.

Table 1. *Number of sources grouped according to level of interaction*

| Level of interaction | Number of documents |
|--|---------------------|
| Internal communication within Ministry of the Interior | 44 |
| Refugee support groups and individuals | 142 |
| Intergovernmental level: Ministry of Foreign Affairs, including West German consulates and embassies | 68 |
| Intergovernmental level: Federal Office for the Admission of Foreign Refugees | 38 |
| Federal Cooperation | 73 |

According to the Federal Archive Act, the federal archives are responsible for safely storing, providing access to and systematically working with material assessed as having “permanent value”⁷⁰. This means that the documents have gone through a pre-selection process by the archive, which aims to filter material that contains important tasks, topics and developments according to the “leadership principle” (identifying the leading ministry in the specific policy area)⁷¹. The archive chooses files that have been regarded as significant and worthy to be

⁶⁴ ‘Recherche mit invenio’, *Bundesarchiv*, <https://invenio.bundesarchiv.de/basys2-invenio/login.xhtml> (02-02-2019).

⁶⁵ Bundesarchiv (BA), Bundesministerium des Innern (BMI), B 106-90286, B 106-90287, B 106-90288, B 106-90289, B 106-90290, B 106-101022, B 106-101023. Sources will be cited as follows: BA, BMI, inventory number, sender and receiver/title of the source, date. Normally, the date that the sender indicated is used, only if it was not mentioned, the date stamp is cited.

⁶⁶ I accidentally gained access to this file, which is supposed to get destroyed BA, BMI, B 106-90285.

⁶⁷ BA, BMI, B 106-117730.

⁶⁸ BA, Bundeskanzleramt (BKAm), B 136-16707.

⁶⁹ Newspaper articles and jurisprudence were not considered in this work because of the limited time and scope of the thesis.

⁷⁰ § 3 (1 and 2) BArchG.

⁷¹ ‘Bewertung von Unterlagen der Abteilung Bundesrepublik Deutschland’, *Das Bundesarchiv*. 27 September 2017, <https://www.bundesarchiv.de/DE/Content/Artikel/Ueber-uns/Aus-unsere-Arbeit/bewertungsgrundsätze-abtb.html> (27-06-2019).

archived for future generations and research⁷². However, there is no inventory that gives detailed information about the selection made in the files that are used in this research. Working with these fragmented sources means that ‘silent gaps’ exist due to the archival selection process and oral directives, informal meetings and agreements that are undocumented⁷³. Still, according to the archive’s selection criteria the preserved documents represent the core of the case of the Christian asylum seekers from Turkey. Challenges in analysing the sources remain since it is sometimes unclear if letters/resolutions were sent off or simply drafted. It is also not known who transferred those documents that were not addressed to the BMI to the files. Since the BMI took the lead in asylum affairs at the political level, this collection contains the most influential correspondence that involve the most important parties who shaped asylum policies. So, the pool of sources contains arguments written by these actors themselves as well as claims which the BMI paraphrased according to its own understanding. Focusing on sources from a national agency like the BMI could colour this research in “methodological nationalism”, assuming the nation-state being the natural order of societies⁷⁴. Indeed, the sources place the case of the Christian asylum seekers from Turkey within the framework of the nation-state where decisions are made that either reject or grant admission to the national territory. In the early 1980s, asylum policies were still a national competence, since transnational interconnections gain importance with the formation of the European Union and common European asylum policies later on. Thus, this research confirms “that nationalism is a powerful signifier that continues to make sense for different actors with different purposes and political implications”⁷⁵. But we must be aware that this approach depicts only one side of the complex nature of asylum and migration, leaving out other perspectives such as transnational ties.

Method

Analysing the fragmented material of different genres found in the federal archives requires some sort of methodological flexibility. Therefore, I combine ‘social network analysis’ with ‘frame analysis’.

Since the research question focuses on the interplay of various actors as documented in the Federal Ministry of the Interior, social network analysis is a useful method as it

⁷² ‘Aufgaben des Bundesarchivs’, *Das Bundesarchiv*, https://www.bundesarchiv.de/DE/Content/Artikel/Ueber-uns/ueber-uns_aufgaben.html (30-04-2019).

⁷³ This is especially visible in the last analytical chapter, whereby there is a missing link between the negotiations and the final decision on the alternative right to stay (hardship regulation).

⁷⁴ Wimmer, Andreas and Glick-Schiller, Nina, ‘Methodological nationalism and beyond: nation-state building, migration and the social sciences’, *Global Networks* 2:4 (2002) 301-334, 301f., 309.

⁷⁵ *Ibid.*, 326f.

assumes ““that social life is created primarily and most importantly by relations and the patterns formed by these relations.””⁷⁶ Social network analysis originates from social sciences attempting to systematically analyse the links of a network from data collected through questionnaires or interviews⁷⁷. In political science the method is widely used to assess policy networks⁷⁸ because “policy making is a set of interconnected events and communicating people”⁷⁹. In this generic understanding of policy networks, the interplay that this paper examines represents a type of policy network. However, the types of policy network approaches defined in political science⁸⁰ do not suit this case, therefore I will use the terms ‘interplay’ or ‘interaction’ instead of ‘policy network’. In any written document perceived relational structures can be analysed⁸¹. Applied social network analysis treats actors as nodes that are inter-connected⁸². This connectedness is then examined through classifying different types of relations⁸³. There is a set of quantitative and qualitative methods within the social network analysis, whereby the fruitfulness of combining these⁸⁴ to gain insights about intentions of various stakeholders have been highlighted⁸⁵. Merging the two methods also has the

⁷⁶ Quoted in Williamson, Matthew, *The networks of John Jay, 1745-1801: A historical network analysis experiment* (Boston 2017), 18.

⁷⁷ *Ibid.*, 18, 24.

⁷⁸ Policy networks can be defined as “sets of formal institutional and informal linkages between governmental and other actors structured around shared if endlessly negotiated beliefs and interests in public policy making and implementation. These actors are interdependent and policy emerges from the interactions between them.” Rhodes, Roderick A.W., ‘Policy Network Analysis’, *Robert E. Goodin, Michael Moran and Martin Rein (eds.): The Oxford Handbook of Public Policy*. September 2009, <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199548453.001.0001/oxfordhb-9780199548453-e-020> (19-05-2019).

⁷⁹ *Ibid.*

⁸⁰ Interest intermediation (refers to a continuum of networks starting from policy community to issue network, but my case has characteristics of both ends of the continuum), interorganisational analysis (only covers formal organisations) and governance (speaks of shared power which is only partly traceable in my case), *Ibid.*

⁸¹ Nagel, Alexander-Kenneth, ‘Zur inhaltsanalytischen Erhebung von Netzwerkdaten. Der Bologna-Prozess als transnationales Politiknetzwerk’, in: Markus Gamper, Linda Reschke and Marten Düring (eds.), *Knoten und Kanten III: soziale Netzwerkanalyse in Geschichts- und Politikforschung* (Bielefeld 2015) 341-371, 368.

⁸² Schweers, Christoph, ‘Theoretische Grundlagen der Netzwerkanalyse’, *Anuba Modellversuch: Informationsmaterial zum Modul-Nr. 4: Bildungsnetzwerke bewerten*. 2.12.2002, http://www.anuba-online.de/ext-doc/Materialien_der_BNW_Fortbildung/BNW_bewerten/4-1-2-Netzwerkanalyse.pdf (20-05-2019); Williamson, *The networks of John Jay*, 21.

⁸³ Nagel, ‘Zur inhaltsanalytischen Erhebung’, 351f.; Williamson, *The networks of John Jay*, 21; Rhodes, ‘Policy Network Analysis’.

⁸⁴ Schweers, ‘Theoretische Grundlagen der Netzwerkanalyse’; Nagel, ‘Zur inhaltsanalytischen Erhebung’, 375.

⁸⁵ Nagel, ‘Zur inhaltsanalytischen Erhebung’, 375; Düring, Marten and Stark, Martin, ‘Network Analysis, historical’, *George A. Barnett (ed.): Encyclopedia of Social Networks*. September 2011, <http://web.a.ebsco-host.com.ezproxy.leidenuniv.nl:2048/ehost/detail/detail?vid=0&sid=5ebf5f77-6230-469a-b918-b697ce95e4db%40sdc-v-sess-mgr01&bdata=JnNpdGU9ZWwhvc3QtbGl2ZQ%3d%3d#AN=474307&db=nlebk> (19-05-2019).

advantage of tracing shifts in relations across time, which is one of the major shortfalls of social network analysis⁸⁶.

Düring and Stark state that applying the social network analysis in historical research is still at an early phase, due to various challenges, including the fragmented and sometimes contradicting nature of historical data, the necessity to manually extract information from sources and a lack of training in socio-scientific methods of most historians⁸⁷. Due to these challenges, I do not apply the classical social network analysis which is conducted with the help of different IT programmes using coding schemes but adapt it to my research topic and combine it with frame analysis.

Frame analysis is an analytical approach rooted in discourse theory that is suitable for analysing the claims in the multi-level interplay of asylum politics. Discourse theory emphasises ““systems of relational identities””⁸⁸, i.e. “who you are in relation to others”⁸⁹. A discourse is a process of self-identification and of being defined⁹⁰, and as such, is deeply concerned with belonging and positions of power⁹¹, asking the questions “who is being in- and excluded?” and “whose voice is the most powerful to draw or shift boundaries between groups?” Discourses are bidirectional in nature because they shape, produce, and change social practices, in return get shaped, reproduced and changed by social reality⁹². Competing discourses between different players converge and gain stability at nodal points, which is where relational identities can best be studied⁹³. Frame analysis is a tool to identify and characterise such discourses⁹⁴ because it systematically organises the arguments being used in sets: “Key to frame analysis is the grouping of arguments in vignettes or typologies”⁹⁵. Frames are highlighted, selected and chained claims about problems, causes, moral

⁸⁶ Nagel, ‘Zur inhaltsanalytischen Erhebung’, 346; Rhodes, ‘Policy Network Analysis’; Williamson, *The networks of John Jay*, 25.

⁸⁷ Gamper, Markus, Reschke, Linda and Düring, Marten, ‘Das Millennium der Netzwerkforschung? Die Bedeutung eines relationalen Paradigmas in der internationalen und deutschen Wissenschaft’ in: Markus Gamper, Linda Reschke and Marten Düring (eds.), *Knoten und Kanten III: soziale Netzwerkanalyse in Geschichts- und Politikforschung* (Bielefeld 2015) 7-50, 24.

⁸⁸ Claire Sutherland (2005) quoted in Schrover, Marlou and Schinkel, Willem, ‘Introduction: the language of inclusion and exclusion in the context of immigration and integration’, *Ethnic and Racial Studies* 36:7 (2014) 1123-1141, 1124.

⁸⁹ Zetter, Roger, ‘More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalization’, *Journal of Refugee Studies* 20:2 (2007) 172-192, 173.

⁹⁰ *Ibid.*, 173.

⁹¹ Schrover and Schinkel, ‘language of inclusion and exclusion’, 1137f.

⁹² *Ibid.*, 1125.

⁹³ Also called nodal points: *Ibid.*, 1124f.

⁹⁴ Schrover calls them “packets of organised knowledge”, Schrover, Marlou, ‘Problematisation and particularisation: The Bertha Hertogh story’, *Tijdschrift voor sociale en economische geschiedenis* 8:2 (2011) 3-31, 6.

⁹⁵ Walaardt, ‘From heroes to vulnerable victims’, 1202.

judgment, and solutions⁹⁶, and create a coherent narrative⁹⁷. In this study frames equally stand for “policy paradigms” which are clusters of perceptions, value judgments and causal interpretations shaping policies because they give meaning to a “complex and multipurpose reality”⁹⁸. In migration studies five generic frames have been identified which are also applied in this research: the legalist/responsibility frame, economic frame, humanitarian frame, a morality frame, and the danger frame⁹⁹. This process of categorisation is socially constructed. In effect, it reduces the complexity of the sources' narratives.

I work with the sources of the BMI in five steps. First, the boundaries of the network are identified by looking at the different senders and receivers of the sources. Secondly, five different categories of relations are constructed according to Alexander-Kenneth Nagel¹⁰⁰. The information relation describes the generation, exchange and transfer of knowledge used in asylum policies through papers, reports, meetings etc. between players. The legitimisation relation depicts the transfer of institutional capital from one actor to another, e.g. through authorising someone to represent one's interests. The directive relation appears in contracted hierarchical settings whereby an authority issues directives to a subordinate. The lobby relation illustrates a relationship whereby one party intentionally targets an interest-guided influence on another party in policy networks. Nagel's cooperation relation sometimes describes a general collaboration between two actors and is here mostly used in the federal and ministerial settings. Thirdly, tables are generated for each actor, chronologically listing the communication between sender and receiver (mainly the BMI), naming the types of documents being sent, determining the category of relationship¹⁰¹, summarising and identifying possible frames¹⁰².

⁹⁶ The concept goes back to Robert M. Entman's definition of frames, mentioned in Schrover, Marlou and Walaardt, Tycho, 'The influence of the media on politics and practices: Hungarian refugee resettlement in the Netherlands in 1956', *Journal of Migration History* 3 (2017) 22-53, 28; Walaardt, 'From heroes to vulnerable victims', 1202.

⁹⁷ Schrover, 'problematism and particularisation', 6.

⁹⁸ Bonjour, *Grens en gezin*, 18, 19, 340.

⁹⁹ Schrover and Walaardt, 'influence of the media on politics and practices', 28.

¹⁰⁰ Nagel, 'Zur inhaltsanalytischen Erhebung', 351-353 und Nagel, Alexander-Kenneth, *Der Bologna-Prozess als Politiknetzwerk. Akteure, Beziehungen, Perspektiven* (Wiesbaden 2006), 108-111.

¹⁰¹ This is a sematic interpretation which categorises receiver and sender according to the groups of actors and types of relationship, Nagel, 'Zur inhaltsanalytischen Erhebung', 355.

¹⁰² Nagel introduces pragmatic validations as a method to code intentions of actors in a large amount of documents, *Ibid.*, 357.

Table 2. Example of categorising sources in tables

| Refugee support groups and individuals* | Date | Type of document | Receiver** | Relationship | Other actors named and relationship | Content | Frames |
|--|------------|-----------------------------|------------|--------------|-------------------------------------|---|--------------|
| Aktionsgemeinschaft zugunsten der um Asyl in der BRD nachsuchenden syrisch-Orthodoxen Christen | 17-02-1981 | Letter, report EPD attached | BMI | lobby | EPD (information, alliance) | Appealing to support and grant admission to 15 000 Syrian-Orthodox Christians from Turkey in Germany who are “religious persecuted”. Do not return them “exceeding danger for life and limp”. Ask to negotiate with other EC countries. | Humanitarian |

* Sometimes senders had several roles, e.g. Member of Parliament and refugee supporter, who were grouped according to their main intention.

** Generally, all receivers are listed, apart from those in carbon copy due to over-complexification.

To which extent does this social network analysis represent the contemporary reality of the 1980s? Historical research always tells historical events from a specific angle depending on the “lens” of the author¹⁰³. So, this method does not claim to picture reality but rather “an abstraction of a network”¹⁰⁴ within the Federal Ministry of the Interior. Moreover, missing files and documents do not hamper applying the social network analysis since I adjusted my method and consider the dataset of primary sources as big enough to draw conclusions from¹⁰⁵. Network analysis has been criticised for being static, not being able to analyse changes. The notion of fixedness is reinforced by using classifications of relationships and frame analysis which both “squeeze” sources, actors, interactions and claims in categories. The way I categorise strongly influences the outcome of the analysis¹⁰⁶. However, by employing a methodological flexibility of combining and adjusting methods, the “structural and meaningful dimensions of social relations”¹⁰⁷ can be mutually analysed.

In the following, an overview of the history of labour and refugee migration in the Federal Republic of Germany is given, including the way the asylum procedure has worked and asylum policies were made. Furthermore, the Christian minorities in Turkey are shortly

¹⁰³ Howell, Martha and Prevenier, Walter, *From Reliable Sources. An Introduction to Historical Analysis* (Ithaca, London 2001), 1, 93.

¹⁰⁴ Quote in Williamson, *The networks of John Jay*, 24; Nagel, ‘Zur inhaltsanalytischen Erhebung’, 360, 366-368.

¹⁰⁵ See also Williamson, *The networks of John Jay*, 24.

¹⁰⁶ Nagel, ‘Zur inhaltsanalytischen Erhebung’, 367.

¹⁰⁷ “Struktur- und Sinndimensionen sozialer Beziehungen”, *Ibid.*, 368.

outlined as well as the Turkish-German relationship in the early 1980s. The analysis of the societal, intergovernmental and federal levels follows with an introductory analytical paragraph on the Federal Ministry of the Interior. These findings are merged in the conclusion on the multi-level interplay in asylum politics exemplified in the case of the Christian asylum seekers from Turkey.

2. Migration and asylum in the Federal Republic of Germany 1949-1985

The history of migration and asylum policies in the Federal Republic of Germany in the twentieth century is closely linked to the events of World War II which resulted in millions of displaced persons across Europe¹⁰⁸. The following section gives an overview of the history of labour migration and refugee migration in West Germany including the immigration from Turkish citizens from 1980 to 1985.

Labour migration

In the mid-1950s West Germany faced a labour shortage due to its ‘economic miracle’ and set up several recruitment agreements with other countries to meet the demand¹⁰⁹. These bilateral agreements offered temporary work placements for migrant workers (guestworkers) of whom quite a few settled permanently¹¹⁰. With the oil crisis in 1973 and the growing economic recession, the recruitment was suspended, closing the option of circular migration¹¹¹. Although in the following decade, policies incentivised guestworkers to return, many stayed and brought their family members to West Germany which continued to raise

¹⁰⁸ A detailed overview of migration throughout modern history give Göktürk, Deniz, Gramling, David and Kaes, Anton, ‘Introduction: A German dream?’, in: Deniz Göktürk, David Gramling and Anton Kaes (eds.), *Germany in transit: nation and migration, 1955-2005* (Berkeley 2007) 1-17, 5-8.

¹⁰⁹ Italy (1955), Spain (1960), Greece (1960), Turkey (1961), Portugal (1964), Yugoslavia (1968), Eule, *Inside immigration law*, 10; Bade, ‘Karriere und Funktion abschätziger Begriffe’, 3; Oltmer, *Migration im 19. und 20. Jahrhundert*, 52; Münz, Rainer and Ulrich, Ralf, ‘Germany and its immigrants: A socio-demographic analysis’, *Journal of Ethnic and Migration Studies* 24:1(1998) 25-56, 33.

¹¹⁰ Until 1973 about fourteen million guestworkers had worked in the Federal Republic of whom about eleven million returned to their countries of origin, Oltmer, *Migration im 19. und 20. Jahrhundert*, 52; İçduygu, Ahmet and Sert, Deniz, ‘Türkei’, *Bundezentrale für politische Bildung: Focus Migration. Länderprofil Türkei Nr.5*. April 2009, https://www.bpb.de/system/files/dokument_pdf/LP_05_Tuerkei_2009.pdf (14-04-2019), 3.

¹¹¹ Some scholars assume that the oil crisis was used as a spurious argument to end the guestworker programme, Incesu, Günal, *Ankara - Bonn - Brüssel: Die deutsch-türkischen Beziehungen und die Beitrittsbemühungen der Türkei in die Europäische Gemeinschaft, 1959-1987* (Bielefeld 2014), 135; Bade, ‘Karriere und Funktion abschätziger Begriffe’, 3; Göktürk, Gramling and Kaes, ‘Introduction: A German dream?’, 11.

questions about their integration¹¹². Not only politics favoured them to return, the public opinion also stirred against the settling communities, especially the Turkish¹¹³. They formed the largest group of former guestworkers¹¹⁴, that seemed to be segregated from the rest of society and got increasingly problematised¹¹⁵. Some scholars even refer to an anti-Turkish campaign from 1979 to 1982¹¹⁶. The public political discourse on migration and asylum was catalysed by one million unemployed people, the politicisation of immigration during the national elections (1980 and 1982), the increasing problematisation of immigration and the rise of xenophobia in the society¹¹⁷. The ‘Heidelberger Manifesto’, published by several Professors from universities, illustrates the anti-immigrant discourse warning of “foreign infiltration” by “millions of foreigners”, specifically mentioning Turkish guestworkers¹¹⁸. Looking back at this period, scholars have called the policies concerning foreigners a “pile of shards” because they neither tackled integration challenges nor reformed outdated naturalisation procedures. In the end, they were unsuccessful in reducing numbers of former guestworkers¹¹⁹. Despite a growing number of immigrants of whom many had been invited into the country as part of the workplace, the official rhetoric insisted that the Federal Republic was a “non- immigration country” until the 1990s¹²⁰.

Refugee migration

When in 1949 the Federal Republic was founded, asylum law was included in the constitution with the aim to take responsibility for what had happened in the Nazi period. In the Basic Law (the constitution) the subjective right of asylum was purposely established in a generous and unspecified manner¹²¹: “Persons persecuted for political reasons shall have the

¹¹² Münz and Ulrich, ‘Germany and its immigrants’, 37; Green, ‘Immigration, asylum and citizenship’, 88; Szatkowski, *Die Bundesrepublik Deutschland*, 29.

¹¹³ Kannankulam, ‘Kräfteverhältnisse in der bundesdeutschen Migrationspolitik’, 99.

¹¹⁴ End of September 1979, there were 4,14 Million foreigners in the Federal Republic, 1,27 Million (30,7 percent) were of Turkish descent, Szatkowski, *Die Bundesrepublik Deutschland*, 28.

¹¹⁵ Nuscheler, *Internationale Migration*, 114f.

¹¹⁶ Santel, Bernhard and Thränhardt, Dietrich, ‘Ausländer’, in: Uwe Andersen und Wichard Woyke (eds.), *Handwörterbuch des politischen Systems der Bundesrepublik Deutschland* (Opladen 1993) 9-13, 10; Rucht and Heitmeyer, ‘Mobilisierung von und für Migranten’, 582.

¹¹⁷ Griese, ‘40 Jahre Migrationsforschung’, 35.

¹¹⁸ The manifesto is (not very well) translated in Göktürk, Gramling and Kaes, ‘Introduction: A German dream?’, 111-113; Santel and Thränhardt, ‘Ausländer’, 11; Green, ‘Immigration, asylum and citizenship’, 32; Schneider, *Modernes Regieren und Konsens*, 131.

¹¹⁹ By means of restrictive policies targeting family reunification (December 1981) and incentivising repatriation (December 1983), Bade, *Ausländer*, 58; Szatkowski, *Die Bundesrepublik Deutschland*, 103f., 109f.; Schneider, *Modernes Regieren und Konsens*, 131; Göktürk, Gramling and Kaes, ‘Introduction: A German dream?’, 4.

¹²⁰ Still, in 2004 the CSU party referred to the “non-immigration” paradigm, Ibid.,4; Joppke, ‘Why Liberal States Accept Unwanted Immigration’, 283-286; Bade, ‘Karriere und Funktion abschätziger Begriffe’, 3; Schneider, *Modernes Regieren und Konsens*, 132.

¹²¹ Oltmer, *Migration im 19. und 20. Jahrhundert*, 55; Nuscheler, *Internationale Migration*, 139.

right of asylum”¹²². In 1951 the Federal Republic signed the Geneva Refugee Convention, which meant that then two possible protection statuses existed¹²³. In the following decades these two were subject to re-interpretations in the attempt to draw a line to distinguish between them¹²⁴.

After the refugees from World War II, who were mainly ethnic Germans from Eastern Europe¹²⁵, West Germany had not experienced large numbers of asylum seekers, apart from those fleeing from conflicts in Hungary in 1956 and Czechoslovakia in 1968/69¹²⁶. Therefore, there were no strategic asylum policies in place¹²⁷. In the 1970s, the numbers of refugees increased, peaking at 107 818 applicants in 1980¹²⁸. Numbers decreased until 1983 after which they went up to 438 191 in 1992¹²⁹. In these years most asylum seekers came from developing countries, compared to the decades before when refugees originated from communist countries of Eastern and Central Europe¹³⁰. This challenged the classical definition of a politically persecuted person, because previously, refugees had been politically welcomed, affirming Western superiority over communism¹³¹. But in 1980 half of the asylum seekers originated from Turkey¹³² and because the overall rejection rate was about 90 percent, the majority of the asylum seekers were thought to abuse the asylum system in order to gain admission¹³³. The government took a reserved position regarding the Turkish partner and rather palliated human rights abuses, violence and persecution¹³⁴, although the

¹²² “Politisch Verfolgte genießen Asylrecht”

¹²³ The relationship between these two legal principles defining protection was difficult and constantly reinterpreted, see Marx, *Ausländergesetz*, 545-547. The Protocol relating to the Status of Refugees from 1967 was also signed.

¹²⁴ Münch, ‘Asylpolitik – Akteure, Interessen, Strategien’, 77.

¹²⁵ Eule, *Inside immigration law*, 10.

¹²⁶ Münz and Ulrich, ‘Germany and its immigrants’, 38.

¹²⁷ Münch, ‘Asylpolitik – Akteure, Interessen, Strategien’, 76.

¹²⁸ Poutrus, ‘Asylum in Postwar Germany’, 130; Bade, *Ausländer*, 96.

¹²⁹ Refugees increased due to ongoing conflicts in Sri Lanka and Yugoslavia as well as repatriating ethnic Germans (since 1986), Münz and Ulrich, ‘Germany and its immigrants’, 38; Kreienbrink, ‘60 Jahre Bundesamt für Migration und Flüchtlinge’, 403; Nuscheler, *Internationale Migration*, 116; Green, ‘Immigration, asylum and citizenship’, 91.

¹³⁰ Poutrus, ‘Asylum in Postwar Germany’, 130; Marx, ‘Vom Schutz vor Verfolgung’, 385; Herbert, Ulrich, *Geschichte der Ausländerpolitik in Deutschland: Saisonarbeiter, Zwangsarbeiter, Gastarbeiter, Flüchtlinge* (München 2001), 623.

¹³¹ Kreienbrink, ‘60 Jahre Bundesamt für Migration und Flüchtlinge’, 201; Nuscheler, *Internationale Migration*, 157.

¹³² Marx, ‘Vom Schutz vor Verfolgung’, 386.

¹³³ There were 86.924 Turkish asylum seekers from 1 January 1979 to 31 August 1983, 1.781 were being granted asylum, Szatkowski, *Die Bundesrepublik Deutschland*, 33; Different tables depicting acceptance and rejection rates from 1979-1993 are given in Bendix and Steiner, ‘Political Asylum in Germany’, 35-40; Bade, ‘Karriere und Funktion abschätziger Begriffe’, 9f.; Kreienbrink, ‘60 Jahre Bundesamt für Migration und Flüchtlinge’, 402; Nuscheler, *Internationale Migration*, 114; Münch, *Asylpolitik in der Bundesrepublik*, 161-163.

¹³⁴ Szatkowski, *Die Bundesrepublik Deutschland*, 31, 121, 145; İçduygu and Sert, ‘Türkei’ 3f.

opposition, journalists, some courts and NGOs reported differently¹³⁵. There were about 26 000 Syrian-Orthodox asylum seekers from 1979 to 1985¹³⁶, but estimations are difficult to make due to a lack of data. Neither numbers of rejections and admissions in the asylum procedure nor of (in)voluntary returns are known for Christian asylum seekers from Turkey¹³⁷. The question whether or not Christian minorities could be granted asylum because of political persecution was disputed amongst the judiciary as well as politicians¹³⁸. In this period the term *Asylant* gained popularity as it was increasingly associated with economic refugees and connected with the attribute ‘bogus’¹³⁹. The public and political polarisation around migration and asylum lasted until after the national elections in 1982¹⁴⁰, then lost its power. In 1984 until the mid-1990s, it returned when many people fled the armed conflict in Yugoslavia¹⁴¹. Since the Turkish community was already perceived as problematic, their negative assumption was reinforced by the newly arriving asylum seekers¹⁴².

Asylum policies from 1973-1984 were concerned with reducing newly arriving asylum seekers and limiting the law of asylum. That is why measures targeted to restrict the asylum procedure, to quicken procedures, to impede entrance and worsen living conditions¹⁴³. Until 1982, there was a “cross-party alliance” between governments and opposition on the national and federal state level mutually agreeing that urgent measures were to be passed to tackle problems associated with foreigners and asylum seekers¹⁴⁴. In 1980, an

¹³⁵ Weick, *Die schwierige Balance*, 318-320; Szatkowski, *Die Bundesrepublik Deutschland*, 31, 65, 112, 116.

¹³⁶ In 1984 to the Federal Ministry of the Interior announced that there were currently 4.700 asylum applicants and 1.200 Christians had been granted asylum. The number of rejected asylum seekers was unknown, BA, BMI, B 106-90289, Referat V II 3 an IMK, 11-05-1984; BA, BMI, B 106-90290, Vorsitzender der IMK an den Vorsitzenden der MPK, 03-07-1984; Merten, *Die syrisch-orthodoxen Christen*, 109.

¹³⁷ *Ibid.*, 108f.

¹³⁸ Szatkowski, *Die Bundesrepublik Deutschland*, 9. Overall most jurisprudence denied collective political persecution especially because Istanbul represented an internal flight alternative, Liegmann, Gabriele, *Eingriffe in die Religionsfreiheit als asylherhebliche Rechtsgutverletzung religiös Verfolgter* (Baden-Baden 1993), 32-34.

¹³⁹ Bade, ‘Karriere und Funktion abschätziger Begriffe’, 7; Schneider, *Modernes Regieren und Konsens*, 142.

¹⁴⁰ Policies on foreigners became a central topic in the national elections in 1980 and 1982. The opposition (CDU/CSU) exploited and perpetuated the growing politicisation, accusing the social-liberal coalition’s failure of addressing the increase of asylum seekers in time. After the elections 1982 the CDU became the ruling party and stopped polarising the issue, also due to decreasing numbers of incoming asylum seekers, Kannankulam, ‘Kräfteverhältnisse in der bundesdeutschen Migrationspolitik’, 101; Green, ‘Immigration, asylum and citizenship’, 88; Poutrus, ‘Asylum in Postwar Germany’, 131; Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 158.

¹⁴¹ Kannankulam, ‘Kräfteverhältnisse in der bundesdeutschen Migrationspolitik’, 101.

¹⁴² *Ibid.*, 99; Green, ‘Immigration, asylum and citizenship’, 90; Nuscheler, *Internationale Migration*, 114; Bade, ‘Karriere und Funktion abschätziger Begriffe’, 4; Szatkowski, *Die Bundesrepublik Deutschland*, 30.

¹⁴³ Bade, *Ausländer*, 105f.; Schneider, *Modernes Regieren und Konsens*, 140-148; Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 150.

¹⁴⁴ After the CDU/CSU won the elections in October 1982 migration policies did not change much although they increasingly caused clashes between the coalition partners, liberal FDP and restrictive CDU, Green, ‘Immigration, asylum and citizenship’, 88; Schneider, *Modernes Regieren und Konsens*, 134; Santel and Thränhardt, ‘Ausländer’, 11; Szatkowski, *Die Bundesrepublik Deutschland*, 105, 110, 145f.; Bade, *Ausländer*, 100; Nuscheler, *Internationale Migration*, 129; Poutrus, ‘Asylum in Postwar Germany’, 131.

Immediate Action Programme was decided upon and the Law for Acceleration was changed¹⁴⁵. Additionally, visa requirements were implemented¹⁴⁶ and successfully limited the numbers of incoming asylum seekers¹⁴⁷. Furthermore, work permits for asylum seekers were temporarily denied¹⁴⁸, which fuelled taxpayers' concerns of sponsoring "parasites"¹⁴⁹. In 1982, the new Asylum Procedure Code (Asylverfahrensgesetz 16-07-1982) was passed¹⁵⁰. Moreover, policies targeted to stop immigration through East Berlin¹⁵¹. Civil society, including churches, human rights movements, charities (e.g. Caritas) and the UNHCR, as well as the opposition (mostly after the national elections in 1982) criticised these measures, inter alia because of low recognition rates (12 percent in 1980)¹⁵², lowered standards of due process and the social and psychological conditions of asylum seekers having to live in camps¹⁵³.

Throughout the 1980s, opinions on asylum policies were polarised. Eventually, the heated debates about the abuse of the right of asylum, limited reception capacities as well as apocalyptic number games resulted in the *Asylkompromiß* in 1993: the restrictive amendment of the Basic Law¹⁵⁴. After all, at the end of the 1980s many rejected asylum seekers lived as de-facto refugees in West Germany because they could not be expelled due to the non-refoulement principle of the 1951 Refugee Convention¹⁵⁵.

¹⁴⁵ Nuscheler, *Internationale Migration*, 140-143.

¹⁴⁶ Visa requirements targeted those countries of origin where the majority of asylum seekers (79,4 percent) originated from in 1980: Turkey (53,7 percent), India, Sri Lanka, Bangladesh, Pakistan, Iran, Afghanistan and Ethiopia, Kreienbrink, '60 Jahre Bundesamt für Migration und Flüchtlinge', 402. Sanctions targeting the airlines transporting passengers without valid visas made this policy very efficient, Marx, 'Vom Schutz vor Verfolgung', 386.

¹⁴⁷ Szatkowski, *Die Bundesrepublik Deutschland*, 33.

¹⁴⁸ Bosswick, 'Development of Asylum Policy', 45.

¹⁴⁹ Nuscheler, *Internationale Migration*, 178.

¹⁵⁰ Judicial options were reduced, federal distribution of asylum seekers was defined and asylum seekers were obliged to live in collective accommodations and their freedom of movement got restricted, Marx, 'Vom Schutz vor Verfolgung', 387f.; Nuscheler, *Internationale Migration*, 174; Münch, 'Asylpolitik – Akteure, Interessen, Strategien', 74.

¹⁵¹ Especially Tamils refugees from Sri Lanka entered through the "Einfallstor" East Berlin, Bade, *Ausländer*, 97.

¹⁵² Nuscheler, *Internationale Migration*, 140.

¹⁵³ Milzow, Katrin, 'Anatomy of A Crisis: Relations Between the United Nations High Commissioner for Refugees and the Federal Republic of Germany from the 1970s to the 1980s', *Refugee Survey Quarterly* 27:1 (2008) 74-88, 76-79; Herbert, *Geschichte der Ausländerpolitik*, 269; Nuscheler, *Internationale Migration*, 139f.; Kreienbrink, '60 Jahre Bundesamt für Migration und Flüchtlinge', 402; Bade, *Ausländer*, 106; Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 148-150, 158.

¹⁵⁴ Bade, 'Karriere und Funktion abschätziger Begriffe', 4; Herbert, *Geschichte der Ausländerpolitik*, 623; Münch, 'Asylpolitik – Akteure, Interessen, Strategien', 77; Münch, *Asylpolitik in der Bundesrepublik*, 168, 183.

¹⁵⁵ Tiedemann, *Flüchtlingsrecht*, 11; Kreienbrink, '60 Jahre Bundesamt für Migration und Flüchtlinge', 403.

2.1. The asylum procedure

An asylum procedure had to be initiated by requesting asylum at one of the Foreign Offices in the federal states. The authorities referred the application to the Federal Office for the Recognition of Foreign Refugees (BAFI)¹⁵⁶, yet on the suspicion of a ‘manifestly legal abuse’ of the right of asylum, applications could be dismissed¹⁵⁷. The BAFI as a Higher Federal Authority belonged to the Federal Ministry of the Interior but independently decided asylum applications¹⁵⁸. Since 1965 there was the Federal Commissioner for Asylum Affairs (Bundesbeauftragte für Asylangelegenheiten) who was subject to directives of the BMI. The commissioner appealed against decisions of the BAFI to ensure the uniformity of decisions of the courts and the BAFI¹⁵⁹. If the BAFI rejected an applicant, a claim could be lodged at local Administrative Courts¹⁶⁰. The applicant could appeal against a first instance rejection at the Higher Administrative Court within his or her state¹⁶¹. On a national level, there was the Federal Administrative Court and the Federal Constitutional Court, where asylum seekers could either appeal on points of law or file a constitutional complaint. The asylum procedure, including all possibilities to claim and appeal at courts, could last up to six to eight years¹⁶².

2.2. The making of asylum policies

When speaking of the government I mostly refer to the chancellor (Helmut Schmidt until 1982 and Helmut Kohl until 1998) and his Cabinet, which consists of the federal ministers being in charge of the federal ministries¹⁶³. These ministries work independently according to the guidelines of the chancellor¹⁶⁴. Asylum policies are in the responsibility of the Federal Ministry of the Interior (BMI). In the 1980s, the ministry became a leading player within the

¹⁵⁶ Marx, ‘Vom Schutz vor Verfolgung’, 382.

¹⁵⁷ Ibid., 383; Kreienbrink, ‘60 Jahre Bundesamt für Migration und Flüchtlinge’, 402.

¹⁵⁸ Kreienbrink, ‘60 Jahre Bundesamt für Migration und Flüchtlinge’, 400, 402.

¹⁵⁹ Münch, *Asylpolitik in der Bundesrepublik*, 163f.

¹⁶⁰ Before 1980 only the VG Ansbach in Bavaria was hearing asylum cases. The first law for the acceleration of asylum proceedings from 07.07.1978 changed this and from 01-01-1980 in all states administrative courts became responsible for asylum cases, Bosswick, ‘Development of Asylum Policy’, 45; Nuscheler, *Internationale Migration*, 141.

¹⁶¹ Tiedemann, Paul, ‘The use of foreign asylum jurisprudence in the German administrative courts’, in: Guy S. Goodwin-Gill and Hélène Lambert, *The Limits of Transnational Law: Refugee Law, Policy Harmonization and Judicial Dialogue in the European Union* (Cambridge 2010) 57-84, 59.

¹⁶² Nuscheler, *Internationale Migration*, 141.

¹⁶³ The chancellery is the centre of information and coordination for the whole government and works like a smaller version of it with a referee who monitors each ministry and prepare decisions of chancellor, Spieker, Manfred, ‘Bundesregierung’, in: Uwe Andersen and Wichard Woyke (eds.), *Handwörterbuch des politischen Systems der Bundesrepublik Deutschland* (Opladen 1993) 50-55, 53.

¹⁶⁴ Ellwein, Thomas and Hesse, Joachim J., *Das Regierungssystem der Bundesrepublik Deutschland* (Opladen 1987), 300.

government, setting agendas, following its safety concerns, and pushing for legislature¹⁶⁵. Yet, the ministry depended on cooperation with the federal states because they were responsible for executing asylum policies. Thus, negotiation processes were strongly influenced by the federal state level, especially by the interior ministers of the federal states¹⁶⁶. Federal cooperation took place in informal inter-federal state conferences¹⁶⁷, aiming for horizontal coordination on a so called ‘third level’¹⁶⁸. Most important for this research are the Conference of Minister-Presidents (Ministerpräsidentenkonferenz/MPK) and the Conference of Interior Ministers (Innenministerkonferenz/IMK), because both conferences dealt with asylum matters throughout the early 1980s¹⁶⁹. The Conference of Minister-Presidents has been the superior forum for self-coordination amongst the minister presidents¹⁷⁰. The Conference of Interior Ministers has emerged as the central forum for federal cooperation in asylum policies¹⁷¹. Another actor within the third level represents the ‘meeting of authorised experts in matters concerning foreigners’ (Ausländerreferentenbesprechung/ARB). This has been a coordination group of the national government and the federal states, functioning as some sort of forum for consultation on migration policies¹⁷². The relation between the third level, the national and federal state level has been a topic of controversial discussion¹⁷³. Due to the federal system, asylum policies have been unevenly interpreted and implemented between the more liberal Northern states and the “restrictionist” Southern states¹⁷⁴. In the early 1980s, especially the federal states of Berlin, Baden-Württemberg and Bavaria, the government and the Conference of Interior Ministers shaped the asylum policies¹⁷⁵. Party politics did not differ as much compared to the positions between the federal levels¹⁷⁶.

¹⁶⁵ However, depending on cooperation with the federal states’ ministers of the interior achieved through the IMK, Schneider, *Modernes Regieren und Konsens*, 121, 139, 171; Münch, ‘Asylpolitik – Akteure, Interessen, Strategien’, 75.

¹⁶⁶ Schneider, *Modernes Regieren und Konsens*, 171.

¹⁶⁷ Ibid., 145, 162, 171.

¹⁶⁸ Ellwein and Hesse, *Das Regierungssystem*, 82; Hegele, Yvonne and Behnke, Nathalie, ‘Die Landesministerkonferenzen und der Bund – Kooperativer Föderalismus im Schatten der Politikverflechtung’, *Politische Vierteljahresschrift* 54:1 (2013) 21-49, 22.

¹⁶⁹ Schneider, *Modernes Regieren und Konsens*, 145.

¹⁷⁰ First founded in 1948 and since 1954 a permanent forum, ‘Die Ministerpräsidentenkonferenz’, *Der Regierende Bürgermeister Senatskanzlei*, <https://www.berlin.de/rbmskzl/politik/bundesangelegenheiten/die-ministerpraesidentenkonferenz/artikel.23573.php> (05-06-2019).

¹⁷¹ Founded in 1954, Stüwe, Klaus, ‘Innere Sicherheit im Bundesstaat: Das Beispiel Deutschland’, in: Klaus Detterbeck, Wolfgang Renzsch and Stefan Schieren (eds.), *Föderalismus in Deutschland* (München 2010) 293-318, 301. About the role of the ministers of the interior, Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 146; Schneider, *Modernes Regieren und Konsens*, 121, 141.

¹⁷² There is not much literature on the historical organisation and role of the Ausländerreferentenbesprechung (ARB). Few information is given in Schneider, *Modernes Regieren und Konsens*, 351.

¹⁷³ Hegele and Behnke, ‘Die Landesministerkonferenzen und der Bund’, 27-29.

¹⁷⁴ Quote in: Joppke, ‘Why Liberal States Accept Unwanted Immigration’, 285; Joppke, ‘Asylum and State Sovereignty’, 275f.; Eule, *Inside immigration law*, 13f.

¹⁷⁵ Schneider, *Modernes Regieren und Konsens*, 150.

¹⁷⁶ Münch, *Asylpolitik in der Bundesrepublik*, 70, 146.

2.3. Christian minorities in Turkey

Looking at the Turkish history, there have been multiple Christian ethnic and denominational groups¹⁷⁷. They have been differently named, that is why I will use the same terms that predominantly appear in the sources. The most well-known and largest in numbers have been the Armenian apostolic community, the Greek-Orthodox church and the Syrian-Orthodox Christians¹⁷⁸, but there have been various others, such as Roman-Catholic denominations of different ethnic groups as well as some protestant churches¹⁷⁹. Legally the Turkish state officially acknowledged only the first two sub-groups and theoretically provided them protection under the Treaty of Lausanne (1923)¹⁸⁰.

There are two central themes in the history of Christian minorities in Turkey. First, their historical suffering, oppression and persecution in particular during the last century of the Ottoman Empire and the independence war (1918-1923), culminating in the Armenian genocide of 1915¹⁸¹ and in the population exchange between Greece and Turkey in 1923¹⁸². After the Turkish Republic was formed, Turkish identity was strongly linked with Islam. A process of ‘Turkification’ started, thus discriminating against ethno-religious minorities, forcing them to assimilate and in general, denying the multi-ethnic and religious diversity of the population¹⁸³. Additionally, political disputes with Christian countries resulted in repercussion against Christian minorities who were thought to be internal enemies¹⁸⁴. These historical experiences had created violent conflicts and mutual distrust between Christians and Muslims¹⁸⁵ and remain in the collective memory of the minority groups until the present day¹⁸⁶. The second major theme is concerned with the shrinking number of Christian

¹⁷⁷ An overview can be found in Liegmann, *Eingriffe in die Religionsfreiheit*, 25-28.

¹⁷⁸ Szatkowski, *Die Bundesrepublik Deutschland*, 121.

¹⁷⁹ ‘Die Lage der Christen in der Türkei’, *Wissenschaftliche Dienste des Deutschen Bundestages*. 21 August 2008, <https://www.bundestag.de/resource/blob/414004/5c9d65693529ccfc9918cec03e793105/wd-1-097-08-pdf-data.pdf> (13-04-2019), 7.

¹⁸⁰ In addition, the Jewish minority was included, whereas all other minorities were not considered, ‘Die Lage der Christen in der Türkei’, *Wissenschaftliche Dienste des Deutschen Bundestages*, 9; Liegmann, *Eingriffe in die Religionsfreiheit*, 28-34.

¹⁸¹ Which also affected Christian denominations of other ethnic minorities, *Ibid.*, 25-28.

¹⁸² Seufert, Günter, ‘Religiöse Minderheiten in der Türkei’, *Bundeszentrale für politische Bildung: Aus Politik und Zeitgeschichte*. 12 June 2008, <http://www.bpb.de/apuz/31145/religioese-minderheiten-in-der-tuerkei?p=all> (13-04-2019).

¹⁸³ Mustafa Kemal Atatürk founded the nation proclaiming one national ethnicity: “The Muslim Turkish”, Merten, *Die syrisch-orthodoxen Christen*, 36-38, 50; Atto, *Hostages in the homeland*, 100-102.

¹⁸⁴ Atto, *Hostages in the homeland*, 119.

¹⁸⁵ Also “external factors, like the division of Cyprus in 1974 and fighting in Lebanon in 1976, further strained relations between Christians and Muslims in Turkey”, Walaardt, ‘From heroes to vulnerable victims’, 1204; Seufert, ‘Religiöse Minderheiten in der Türkei’; Merten, *Die syrisch-orthodoxen Christen*, 23; Atto, *Hostages in the homeland*, 84f.

¹⁸⁶ Armbruster, Heidi, ‘Raum und Erinnerung. Überlegungen zu Rand und Kern im Leben Syrisch-Orthodoxer Christen aus der Türkei’, in: Gerdien Jonker (ed.), *Kern und Rand. Religiöse Minderheiten aus der Türkei in Deutschland* (Berlin 1999) 31-50, 43.

minorities living in Turkey due to decades of emigration, stimulated by these historic events and developments¹⁸⁷.

Looking at their situation from the 1970s to the end of the 1980s, we have to acknowledge that due to the sheer number of sub-communities, there is no universal history of Christian minorities. I will give a brief overview of the general situation in Turkey and then introduce the Armenian and Syrian-Orthodox Christians which formed the largest groups of the Christian asylum seekers from Turkey¹⁸⁸.

Internal tensions between left- and right-wing groups, ethno-religious and ideological conflicts, an overall political instability and economic downturn throughout the 1970s cumulated in civil violence and the military coup on 12 September 1980¹⁸⁹. The military regime cracked down on anybody suspected of terrorism, abrogated all political parties, censored the media and thus established some sort of inner security. In 1982, the military installed a new constitution that aimed to prevent previous political fragmentation, excluded several associations and cooperatives from politics, officially guaranteed religious freedom and introduced Islam as the core of Turkish nationalism¹⁹⁰. A year later, a new government was democratically elected. Neither the constitution nor the new government fulfilled Western democratic standards¹⁹¹. Despite the attempt to build a common national identity based on a synthesis of Turkishness and Islamism, a “process of disintegration along the lines of ethno-cultural cleavages” pervaded society¹⁹².

The Armenian community was associated with the Armenian terrorist movement ASALA. During this period of time, they conducted several attacks on Turkish diplomats abroad, asking for a political plea of guilty and their own territories¹⁹³. This degraded the Armenians’ position within the country, stimulating the government to “liquidate real estate belonging to the corporate entities of minorities’ religious foundations” in 1974 and thus

¹⁸⁷ Seufert, ‘Religiöse Minderheiten in der Türkei’; ‘Die Lage der Christen in der Türkei’, *Wissenschaftliche Dienste des Deutschen Bundestages*, 6.

¹⁸⁸ Also some Greek-Orthodox emigrated into West Germany, first as guestworkers and later as asylum seekers who had been pressured through Turkish assimilation policies, Tamer, Georges, ‘„Laßt uns hier ein Dorf gründen“: Rum-Orthodoxe Christen aus der Türkei in Deutschland’, in: Gerdien Jonker (ed.), *Kern und Rand. Religiöse Minderheiten aus der Türkei in Deutschland* (Berlin 1999) 15-30, 16-18.

¹⁸⁹ A detailed description of the historical events in the 1970s and 1980s can be found in Szatkowski, *Die Bundesrepublik Deutschland*, 17-25; İçduygu, Ahmet, Toktas, Şule and Soner, Ali B., ‘The politics of population in a nation-building process: emigration of non-Muslims from Turkey’, *Ethnic and Racial Studies* 31:2 (2008) 358-389, 376f.

¹⁹⁰ Inter alia realised in the education system whereby Islam became a mandatory subject in schools, *Ibid.*, 376.

¹⁹¹ Szatkowski, *Die Bundesrepublik Deutschland*, 73.

¹⁹² Atto, *Hostages in the homeland*, 131; İçduygu, Toktas and Ali Soner, The politics of population, quote: 376f.

¹⁹³ Szatkowski, *Die Bundesrepublik Deutschland*, 123f.

withdrawing their financial basis¹⁹⁴. Additionally, many schools and seminaries were closed, violating of property and educational rights¹⁹⁵.

The Syrian-Orthodox Christians originate from South Eastern Anatolia, mainly from the regions of Tur Abdin and Mardin¹⁹⁶. The whole area had been known for structural and economic underdevelopment, complex social compositions and ethnic conflicts¹⁹⁷. First, some of the Christians came as guestworkers into West Germany escaping discrimination and danger¹⁹⁸. With the escalating Kurdish-Turkish conflict in the 1970s, violence accelerated¹⁹⁹. Additionally, patron-client relationships between Kurdish masters and Christian subordinates led to emigration from South Eastern Anatolia²⁰⁰. During the military regime, the army was present, and conflicts cooled down until the mid-1980s²⁰¹. Since the Christians experienced various human rights abuses, like kidnapping and assaults, as well as structural discrimination, whole families and even communities left the region between the 1970s-1980s and became one of the most prominent group of Turkish asylum seekers in West Germany²⁰².

Of note, there were also quite a lot of Turkish asylum seekers of other minorities, like the Kurdish and Yezidi refugees. Citizens of both minorities had participated in the guestworker programme. Whereas the Kurdish applicants fled for political and ethnic persecution, the Yezidi did so mostly because of ethno-religious persecution²⁰³.

2.4. The relationship between Turkey and West Germany

The West German-Turkish relationship in the early 1980s was impacted by “policies closely intertwined with questions relating to interior and exterior affairs”²⁰⁴. Both countries had a quite intense and positive bilateral relationship since they were important strategic partners.

¹⁹⁴ İçduygu, Toktas and Soner, ‘The politics of population’, 272, 375.

¹⁹⁵ Ibid., 374; Seufert, ‘Religiöse Minderheiten in der Türkei’.

¹⁹⁶ Armbruster, ‘Raum und Erinnerung’, 48; Atto, *Hostages in the homeland*, 109-114.

¹⁹⁷ For further details on the relationship between Syrian Christians, Kurdish and Turkish nationals, see Atto, *Hostages in the homeland*, 111-114.

¹⁹⁸ Armbruster, ‘Raum und Erinnerung’, 33.

¹⁹⁹ Ibid., 33; Atto, *Hostages in the homeland*, 125f., 130f.

²⁰⁰ Talay, ‘Mit-, Neben- und Gegeneinander’, 166; Atto, *Hostages in the homeland*, 111-117.

²⁰¹ Merten, *Die syrisch-orthodoxen Christen*, 58-62.

²⁰² They also fled to other European countries, especially to Sweden, and some to the Netherlands, Belgium, Switzerland, Austria and France, Armbruster, ‘Raum und Erinnerung’, 33; Merten, *Die syrisch-orthodoxen Christen*, 20, 34, 52f.; 101-103.

²⁰³ Blaschke, Jochen, ‘Refugees and Turkish migrants in West Berlin’, in: Danièle Joly and Robin Cohen (eds.), *Reluctant hosts: Europe and its refugees* (Aldershot 1989) 96-104, 98-101; However, as for the Christian minorities too, their asylum requests were contested, Szatkowski, *Die Bundesrepublik Deutschland*, 113-119.

²⁰⁴ “[e]in besonderes Kennzeichen der deutschen Türkeipolitik war die enge Verzahnung von außen- und innenpolitischen Fragen.” Szatkowski, *Die Bundesrepublik Deutschland*, 143.

The military coup changed little with regards to this connection, although the developments were closely monitored²⁰⁵. Economically, the Republic was Turkey's most important trading partner and supported the country with various economic, financial and defence relief efforts, of which in return profited the German economy²⁰⁶. These supportive measures had a political dimension because with the dawning realisation of the free movement for Turkish employees in the European Community in 1986 (on the basis of the association agreement with Turkey in 1963), the Federal Republic feared a mass immigration of Turkish citizens. This would accelerate already existing problems with the about 1,5 million Turkish residents (excluding asylum seekers)²⁰⁷. Hoping for a Turkish concession in this regard, the Republic not only mediated but even advocated on behalf of the military regime in the European Community²⁰⁸. The East-West Cold War conflict and the crisis in the Middle East were much more critical for the West German support since it necessitated to stabilise the Turkish state. Turkey was a crucial NATO partner in its geostrategic position whereby its stability seemed to be essential for guaranteeing its Western loyalty²⁰⁹. That is why introducing the visa requirements in 1980 to stop "floods of asylum seekers"²¹⁰ were a "sore diplomatic subject"²¹¹ perturbing the German-Turkish relationship. Additionally, restricting family reunification, xenophobia, spill-over effects of inner Turkish conflicts, volunteer repatriation and integration of former guestworkers stressed the relationship in the 1980s²¹². Asylum policies were closely interlinked with foreign policies, security concerns and assessment of human rights abuses²¹³. In the parliament issues regarding Turkish asylum seekers, like human rights abuses of minorities, were first raised in 1980 without much support²¹⁴. It was in 1982 when the government had changed, that Turkish policies polarised in the parliament²¹⁵. National and European public and political pressure grew, so that the new government addressed the

²⁰⁵ Refflinghaus, *Deutsche Türkeipolitik*, 262.

²⁰⁶ Szatkowski, *Die Bundesrepublik Deutschland*, 16, 91, 138.

²⁰⁷ Ibid., 139, 34-36, 143; Refflinghaus, *Deutsche Türkeipolitik*, 242-244, 260f.

²⁰⁸ Günal, *Ankara - Bonn - Brüssel*, 210, 214.

²⁰⁹ Szatkowski, *Die Bundesrepublik Deutschland*, 8, 30; Weick, *Die schwierige Balance*, 205f.; Refflinghaus, *Deutsche Türkeipolitik*, 242.

²¹⁰ Most countries of the EC followed this example within a few weeks, Weick, *Die schwierige Balance*, 265f.

²¹¹ Göktürk, Gramling and Kaes, 'Introduction: A German dream?', 11.

²¹² Weick, *Die schwierige Balance*, 263f., 269-287.

²¹³ Szatkowski's analysis of sources from the Ministry of External Affairs, especially reports from the German embassy in Ankara reveal this intersection very clearly, Szatkowski, *Die Bundesrepublik Deutschland*, 31, 65, 112, 116; Weick, *Die schwierige Balance*, 309.

²¹⁴ Weick, *Die schwierige Balance*, 118f., 203-205.

²¹⁵ 1974-1982 the government of the Federal Republic consisted of the Social Democrats *SPD* forming a coalition with the Free Democrats *FDP* (both parties were re-elected in the national elections on 5 October 1980). The Union parties of the Christian Democrats *CDU/CSU* won the elections in October 1982, Green, 'Immigration, asylum and citizenship', 88.

repressive developments and human rights abuses under the military regime²¹⁶. When in 1984 the number of Turkish asylum seekers rose again²¹⁷, it became more difficult to silence asylum related problems in Turkey. Throughout this time, the Turkish policies were characterised by balancing foreign interests and moral obligations²¹⁸. The government tried not to harm the German-Turkish friendship placing the spotlight on the highly sensitive issue of minority-related problems within Turkey and thus avoided of being accused of supporting separatist movements²¹⁹.

3. The multi-level interplay in the case of the Christian asylum seekers from Turkey

3.1. The Federal Ministry of the Interior coordinating asylum policies

The intra ministerial communication of the BMI is key because it reveals the positioning of the ministry in relation to almost all other actors (apart from the Federal Ministry of Foreign Affairs). Partly mirroring the relationships between the BMI and the other actor, this analysis can be understood as an introduction to the following analytical chapters, which focus on the BMI's interactions and relationships at different levels. In this section, first of all, the ministry is introduced, secondly, the pool of sources is outlined, then the themes and frames are looked into. This is followed by an analysis of the relational dimension, examining why the case of the Christian asylum seekers from Turkey was contested.

The BMI has been hierarchically structured with the Federal Minister of the Interior on top, supported by the Parliamentary State Secretaries and State Secretaries, followed by the Heads of departments, the Heads of divisions, and the Heads of sub-divisions. The sub-divisions consisted of various referees. The case of Christian asylum seekers from Turkey was taken care off by the department V (constitution, constitutional law and administration), the division V II (administration, matters regarding foreigners and asylum) and in particular

²¹⁶ Especially the Green party, which was represented in the parliament for the first time, raised concerns and critiqued the government, Weick, *Die schwierige Balance*, 207f.; Refflinghaus, *Deutsche Türkeipolitik*, 244; Szatkowski, *Die Bundesrepublik Deutschland*, 60-62, 77, 80-82, 139-142.

²¹⁷ Weick, *Die schwierige Balance*, 267.

²¹⁸ Especially in 1984 human rights abuses and the Kurdish question were heavily debated not only in the parliament but also in the media and eventually torture was officially addressed, Weick, *Die schwierige Balance*, 207-242. Other major issues in the mid-1908s were relief efforts, including arms exports, family reunification and free movement, Refflinghaus, *Deutsche Türkeipolitik*, 266-272.

²¹⁹ Weick, *Die schwierige Balance*, 121-124.

the subdivision V II 3²²⁰. V II 3 was in charge of the asylum law, quota refugees and had the supervisory control over the BAFI and the Federal Commissioner for Asylum Affairs²²¹. In general, the BMI as an entity practised conservative migration politics adhering to the rule of law. This is exemplified when the Minister of the Interior Zimmermann tried to increase restrictions since 1982²²².

The majority of internal communication is preserved for 1981/82 and 1984²²³. Overall 44 interactions are considered in the files of the BMI, of which 38 documents were either internally exchanged or contained notifications about incidents, meetings, proposals and decisions. Four documents were sent to the chancellery, which are in line with the intra ministerial communication in terms of positioning and narratives.

Table 3. *Communication within the BMI and with other governmental actors*

| Actors | Numbers of documents exchanged with/within the BMI |
|---|--|
| Internal notations | 14 |
| Internally addressed communication | 24 |
| Interactions with other governmental actors | |
| Federal Ministry of Justice | 2 |
| Chancellery | 4 |

Dealing with the admission of the asylum seekers

The BMI was concerned with two key topics from 1980-85 dealing with the admission of Christian asylum seekers from Turkey: Either legalising their stay through the right of asylum or through an alternative right of residence. The struggle over granting asylum was

²²⁰ Between 1980 and 1982 the department V was restructured, and asylum matters were included under division V II, in the newly founded subdivision V II 3. It is not quite clear when this exactly happened looking at the organisation charts that the federal archives provided me with, BA, BMI, B 106_Org_1980_07, Organisationsübersicht des Bundesministeriums des Innern, 15-06-1980; BA, BMI, B 106_Org_1982_02, Organisationsübersicht des Bundesministeriums des Innern, Februar 1982; BA, BMI, B 106_Org_1982_12, Organisationsübersicht des Bundesministeriums des Innern, 16-12-1982; BA, BMI, B 106_Org_1983_09-1, Organisationsübersicht des Bundesministeriums des Innern, 01-09-1983; BA, BMI, B 106_Org_1984_08, Organisationsübersicht des Bundesministeriums des Innern, 10-08-1984; BA, BMI, B 106_Org_1985_08_06, Organisationsübersicht des Bundesministeriums des Innern, 06-08-1985.

²²¹ BA, BMI, B 106_GVpl_1980_07, Geschäftsverteilungsplan des Bundesministeriums des Innern, 15-07-1980; BA, BMI, B 106_GVpl_1980_07_NT_1985-1, Geschäftsverteilungsplan des Bundesministeriums des Innern, 20-12-1985.

²²² Schneider, *Modernes Regieren und Konsens*, 135.

²²³ 1980 (6), 1981 (9), 1982 (11), 1983 (6), 1984 (10), 1985 (2).

prevalent in interpreting and debating the meaning of court decisions and the reports from the Federal Ministry of Foreign Affairs. In addition, the questions whether the BAFI should terminate making decisions according to jurisprudence and whether the Federal Commissioner for Asylum Affairs should appeal against admissions, mirrored this dispute. The need for deciding an alternative option to stay was viewed as a responsibility of the federal states. With regards to finding a political solution, frames concerning possible pull effects on remaining Christians in Turkey appeared. In addition, precedent effects had to be avoided because it would be difficult to deny “other groups which also [suffer] from difficulties and discrimination [...] such a special treatment under the alien law”²²⁴. Of concern was especially the idea to expand the non-deportation principle for refugees from the Eastern Block to the rejected Christian minorities²²⁵. Overall the ministry emphasised the “political relevance”²²⁶ of the problem in the intra-ministerial communication.

The internal notations and communication do not reveal much about the BMI’s framing of the Christian minorities. Yet, the documents reflect the ministry’s responsibilities in the asylum procedure and in negotiating an alternative right to stay in relation to the other actors due to the political dimension that the case had gained.

The Ministry’s central position in the interplay

A rather complex picture of the relational dimensions in asylum politics from the perspective of the BMI emerges which introduces some of the major points of contentions.

First, the case of Christian asylum seekers from Turkey was contested because of the relation of the BMI with the judiciary. The BMI referred to, waited for and carefully analysed the judiciary and its jurisprudence. The ministry was very concerned that the BAFI’s decision-making would contradict with the courts’ judgement, therefore directing it three times to pause the cases of Christian asylum seekers from Turkey²²⁷. For example, the ministry worried that the Bavarian Higher Administrative Court might “misconceive” the decision-making at the BAFI²²⁸. Or that it would be “invidious” if decisions from other instances

²²⁴ “andere Gruppen, die ebenfalls mit Schwierigkeiten und Diskriminierungen[...] diese ausländerrechtliche Sonderbehandlung zu verweigern,” Mentioned were inter alia Ahmadiya, Tamils, Sikhs, to head of chancellery, 10-12-1982.

²²⁵ Inter alia, BA, BMI, B 106-90287, Referat V II 3 Vermerk, 23-12-1982.

²²⁶ BA, BMI, B 106-90288, Referat V II 3 an Chef Bundeskanzleramt, 11-10-1983.

²²⁷ BA, BMI, B 106-90286, Unterabteilung Z III an Bundesinnenminister, 13-11-1980; BA, BMI, B 106-90286, Referat V II 4 an Bundesinnenminister, 21-01-1981; BA, BMI, B 106-90286, Referat V II 3 an Bundesinnenminister, 06-05-1981.

²²⁸ BA, BMI, B 106-90286, Unterabteilung V II Vermerk, 22-01-1981.

would contradict with the court due to the directives issued to the Federal Commissioner²²⁹. So, the ministry acknowledged and followed the judicial authority, eagerly translating legal decisions into political measures. However, jurisprudence on the persecution of the Christian minorities varied, and so did the policymaking of the BMI. One time the BMI concluded that the Federal Constitutional Court's decision in August 1980 would "lead to a rising number of admissions and that approvals of asylum status cannot be denied to Turkish Christians in general"²³⁰. A few months later, the ministry assumed that the Bavarian Higher Administrative Court might reject Christian minorities²³¹. This illustrates the hypothesis that the self-limited sovereignty²³² of the government puts the judiciary in a position to exert "coercive power"²³³ over the governmental legislature. Thus explaining the political insecurity on the question of how to deal with the Christian asylum seekers from Turkey. When the Federal Administrative Court did not sufficiently clarify the status of the Christian minorities in August 1983, "against the cherished expectations"²³⁴, the BMI clearly lacked guidance, phrased its disappointment with the legal outcome and had to tackle the political problem itself. Thereby, it had to balance different internal and external political interests, as well as withstand pressure from the refugee support groups. So, the 'failure' of the judiciary to fulfil its directive role²³⁵ made a way for a plurality of actors fighting over the interpretation²³⁶ of the case of the Christian minorities.

Secondly, the dispute became visible in the difficult relationship with the BAFI. On the one hand, the ministry was in charge of the Federal Office, thus being in a directive relationship. On the other hand, "the instruction autonomy of the decision-makers"²³⁷ restrained the BMI's directive power, thereby indicating a legitimation relationship. Since institutional capital²³⁸ was transferred to the decision-makers to independently decide upon asylum applications, "there (was) no possibility of immediate exertion of influence"²³⁹.

²²⁹ BA, BMI, B 106-90287, Referat V II 3 Vermerk MdB Hoffmann, 26-02-1982.

²³⁰ "Zu einer steigenden Zahl von Anerkennungen führen wird und daß türk Christen i.d.r die Anerkennung als Asylberechtigte nicht versagt werden kann" BA, BMI, B 106-90286, Unterabteilung Z III an Bundesinnenminister, 13-11-1980.

²³¹ BA, BMI, B 106-90286, Referat V II 4 an Bundesinnenminister, 21-01-1981.

²³² Joppke, 'Why Liberal States Accept Unwanted Immigration', 270.

²³³ Bonjour, 'Speaking of Rights', 329f.

²³⁴ BA, BMI, B 106-90289, Referat V II 3 Vermerk, 05-01-1984; BA, BMI, B 106-90289, Referat V II 3 an Chef Bundeskanzleramt, 08-02-1984; BA, BMI, B 106-90289, Referat V II 3 an Parlamentarischen Staatssekretär, 06-06-1984.

²³⁵ Joppke, 'Why Liberal States Accept Unwanted Immigration', 270.

²³⁶ Bonjour, 'The Power and Morals of Policy Makers', 117.

²³⁷ "Wegen der Weisungsunabhängigkeit der Einzelentscheider besteht keine Möglichkeit der unmittelbaren Einflussnahme", BA, BMI, B 106-90289, Referat V II 3 an Bundesinnenminister, 20-12-1983.

²³⁸ Nagel, 'Zur inhaltsanalytischen Erhebung', 353.

²³⁹ BA, BMI, B 106-90289, Referat V II 3 an Bundesinnenminister, 20-12-1983.

Oftentimes the BMI supported and agreed with the BAFI²⁴⁰. However, the two clashed when the BMI wanted to enforce the Federal Administrative Court's decision from August 1983 to approve Syrian-Orthodox asylum seekers, but the BAFI judged "the factual situation different in comparison to the courts"²⁴¹. Yet, the BMI could not direct the BAFI, so that only an "exchange of opinions" was "feasible and appropriate"²⁴². The BMI hoped that further court decisions would force the decision-makers to change their opinion and to grant asylum. This conflict represents the intergovernmental contestation of the case of Christian asylum seekers from Turkey. It is rooted in differently distributed competences within the government that intersect in an interdependent policy area, such as asylum policies²⁴³. It also affirms the hypothesis of the difficulty of interpreting the unspecified right of asylum²⁴⁴ in the Basic Law on the judicial and executive level. This resulted in a divided judiciary, in different decisions being made within the BAFI, and in divergence between the BAFI and the judiciary. This three-folded conflict put further pressure on the BMI to pursue a political solution which would encompass all Christian minorities.

Thirdly, the case was disputed because of refugee support groups being in a lobby relationship with the BMI and exerting a well-expected pressure through forming a powerful opposition²⁴⁵. In 1982, the BMI expected a "fierce resistance"²⁴⁶ of the churches when the BAFI would send out rejections, knowing that "the churches would only accept a negative decision in the case the ministers of the interior of the federal states would [...] grant residence on humanitarian grounds"²⁴⁷. "Because of their strong engagement", the ministry encouraged a dialogue with them in order to cushion and channel their protest against the BAFI's negative decisions²⁴⁸. The Christian charity, Diakonisches Werk, promptly invited the politicians for a meeting to discuss possible political solutions for rejected Christian asylum seekers from Turkey²⁴⁹. The invitation fairly struck the federal states and the BMI,

²⁴⁰ "Für die entscheidungsbefugten Mitarbeiter des Bundesamtes steht auf Grund umfassender Anhörung, der Auswertung mehrerer hundert Akten, vorliegender Gutachten, Stellungnahmen und Äußerungen als entscheidungserheblich fest, daß christliche Türken in der Türkei politischer Verfolgung aufgrund ihres Glaubens nicht ausgesetzt sind." BA, BMI, B 106-90287, Referat V II 3 an Bundesinnenminister, 10-12-1982.

²⁴¹ "die tatsächliche Lage anders als die Gerichte", BA, BMI, B 106-90289, Referat V II 3 an Bundesinnenminister, 20-12-1983; BA, BMI, B 106-90288, Referat V II 3 an Bundesinnenminister, 17-11-1983.

²⁴² "Wegen der Weisungsunabhängigkeit der Einzelentscheider besteht keine Möglichkeit der unmittelbaren Einflussnahme", BA, BMI, B 106-90289, Referat V II 3 an Bundesinnenminister, 20-12-1983.

²⁴³ Ellwein and Hesse, *Das Regierungssystem*, 300f.

²⁴⁴ Marx, *Eine menschenrechtliche Begründung des Asylrechts*, 15f., 177, 197.

²⁴⁵ BA, BMI, B 106-90287, Referat V II 3 Vermerk, 23-12-1982.

²⁴⁶ BA, BMI, B 106-90287, Referat V II 3 an Bundesinnenminister, 14-10-1982.

²⁴⁷ "Kirchen eine negative Entscheidung nur dann akzeptieren würden, wenn die IM der Länder [...] aus humanitären Gründen den Weiteren Aufenthalt zu gestatten", BA, BMI, B 106-90287, Referat V II 3 an Staatssekretär, 07-10-1982.

²⁴⁸ BA, BMI, B 106-90287, Referat V II 3 an Staatssekretär, 07-10-1982.

²⁴⁹ BA, BMI, B 106-90287, Schnellbrief des Diakonisches Werks an mehrere Empfänger, 27-09-1982.

which did not follow the suggestion because this would represent a “fatal precedent” having a private organisation interfering in such a “difficult question, which needed to be clarified” within the responsibility of the government and the federal states²⁵⁰. Looking at the files that are preserved in the BMI, it seems like this invitation kicked off the (internal) communication discussing an alternative right of residence. This shows the successfully maintained lobby relationship from the perspective of the refugee support groups and how authorities yielded to their pressure²⁵¹. In addition, the invitation of the Diakonisches Werk revealed the formalities, sensitivities and power distribution within federal decision-making processes, inevitably resulting in conflicting negotiations.

Fourthly, the problematic case of the Christian minorities became prevalent in the cooperation relationship between the BMI and the federal states. On the one hand, the BMI had a coordinating function in negotiating a political option for the rejected Christian minorities²⁵². The ministry tried to “avoid that the problem was allocated to the BMI”, took a “reserved position”²⁵³ and reminded that the federal states were in charge of implementing the law concerning foreigners²⁵⁴. On the other hand, the ministry considered some resolutions from the third level as “not unproblematic” due to possible pull- and precedent effects and the “consolidation of Turkey”²⁵⁵. Thus, the ministry was concerned that the political problem would be solved adequately according to their safety interest²⁵⁶ without causing pull or precedent effects²⁵⁷ or damaging the relationship with Turkey. Therefore, their role in the cooperation with the federal states remained ambiguous and two-folded, always balancing the government’s interests as well as delegating responsibility according to the federal principles.

The intra-ministerial communication reveals the BMI’s position in the policy area of asylum policies. The BMI did not have any discretionary power in deciding upon the groups’ right of asylum and yet was strongly involved in the process because of its supervisory

²⁵⁰ BA, BMI, B 106-90287, Referat V II 3 an Staatssekretär, 07-10-1982.

²⁵¹ See also Walaardt, ‘From heroes to vulnerable victims’, 1200.

²⁵² BA, BMI, B 106-90287, Referat V II 3 an Staatssekretär, 07-10-1982.

²⁵³ BA, BMI, B 106-90289, Referat V II 3 Vermerk, 05-01-1984; BA, BMI, B 106-101022, Referat V II 3 an Bundesinnenminister, 01-02-1985.

²⁵⁴ “vermieden werden, daß das Problem dem BMI zugeordnet wird”, BA, BMI, B 106-90289, Referat V II 3 Vermerk, 05-01-1984; BA, BMI, B 106-90290, Bericht Abteilung V an Bundesinnenminister, 07-06-1984; BA, BMI, B 106-101022, Referat V II 3 an Bundesinnenminister, 01-02-1985.

²⁵⁵ BA, BMI, B 106-90289, Referat V II 3 Vermerk, 05-01-1984.

²⁵⁶ Schneider, *Modernes Regieren und Konsens*, 121.

²⁵⁷ In summer and autumn 1984 an increasing number of Syrian-Orthodox Christians crossed the border from the Netherlands to Germany. The ministry was concerned that an alternative right to stay would attract Christians from Turkey. There were rumours that thousands of Christians were waiting for a signal to leave Turkey and to immigrate into West Germany, BA, BMI, B 106-101022, Referat V II 3 an Unterabteilung G I, 05-11-1984.

control over the BAFI and the Federal Commissioner. Thus, it had a high interest that the two players acted in accordance with the rule of law which explains the overarching power position of the judiciary and the ministry's moral obligation towards claims from the civil society. In comparison to that, the BMI's role was different in the negotiations of an alternative right to stay. Here, questions of interior and exterior affairs guided the ministry's coordinating function.

3.2. The refugee support groups advocating a right to stay

In the following the role of the refugee support groups is analysed in the contested case of Christian asylum seekers from Turkey. Special attention is paid to the claims being made in their requests and in the responses by the officials, especially the BMI, as well as the relational dimension of their interactions. To begin with, I shortly introduce these groups and their engagement in asylum policies until the 1980s, followed by an overview of the actual actors and the sources being used, before analysing their claims and relationships.

The first migrant support groups engaged trade unions, churches, charity organisations, scientists and others to protest against deportations in 1968/69²⁵⁸. The legal amendments starting from 1978 provoked those groups, however their influence in elementary decisions was marginal²⁵⁹. After 1982 these different groups opposed, together with parts of the judiciary, the SPD and FDP the government's restrictive legal proposals²⁶⁰, attempting to speak up against the general anti-migrant sentiments²⁶¹. So, restrictive asylum policies led to the formation of many refugee support groups within these years²⁶².

When I speak of refugee support groups in this work, I refer to fragmented groups of people and individuals advocating for the case of the Christian asylum seekers from Turkey. They consisted of churches of different denominations, church affiliated groups and individuals, Christian and non-Christian charities, human rights movements, friends or acquaintances of refugees, as well as professionals such as lawyers, clerical leaders and Members of Parliament, whereby the latter most often acted on behalf of the other advocates. The refugee support groups mostly addressed the BMI, but also federal states ministries, members of the Federal Parliament (MP), and other federal ministries. Notably, often the BMI answered

²⁵⁸ Schneider, *Modernes Regieren und Konsens*, 120.

²⁵⁹ *Ibid.*, 125-127.

²⁶⁰ *Ibid.*, 144-148, 150.

²⁶¹ Kirchhoff and Lorenz, 'Between Illegalization, Toleration, and Recognition', 50.

²⁶² Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 158.

requests that were sent to other state actors, therefore there is little evidence of reactions of other actors.

Table 4. *Communication between refugee support groups and state actors*

| State actors | Numbers of letters exchanged with the refugee support groups |
|----------------------------------|--|
| Foreign Affairs (AA) | 6 |
| Federal Office (BAFI) | 8 |
| Chancellery | 13 |
| Interior (BMI) | 73 |
| Other ministries | 9 |
| Federal states | 14 |
| Third level | 7 |
| Member of parliament | 14 |
| Others | 3 |
| <hr/> | |
| Other documents | |
| Reports | 18 |
| Notations within the chancellery | 3 |

Here some files from the chancellery are also considered because the BMI normally informed the chancellery about the development in asylum matters. Overall the files contain 169 interactions, meaning between 1979 and 1985, 168 documents were exchanged between the refugee support groups and other actors (sometimes the same letter was addressed to various receivers). This number includes 18 reports, which have not been considered for this research because focus was paid to claims being made in a relational setting. Overall, 142 physical letters²⁶³ were read.

Framing the asylum seekers and the asylum procedure

In 1980/81 there are not many letters preserved, so claims and frames being used varied. Over the next few years²⁶⁴ frames were used requesting the legalization of the stay of this “sorely afflicted minority”²⁶⁵ either through granting asylum or an alternative right to

²⁶³ 1979 (7), 1980 (1), 1981 (14), 1982 (33), 1983 (40), 1984 (24), 1985 (23).

²⁶⁴ In 1982 most often church affiliated groups and individuals turned to the government, in addition to quite a number of MPs, as well as some individuals and human rights organisations. In the following year, church affiliated groups and individuals approached the BMI or other authorities more than twice as much as individuals or MPs. In 1984 letters from human rights organisations prevail, especially from the GfbV, over church affiliated groups and individuals, picking up the case of Armenian Christians. Almost no interaction between MPs are traceable. In 1985 eight interactions, in terms of request and response communications, are preserved and three single letters to actors were considered.

²⁶⁵ BA, BMI, B 106-101022, MdB Hoffmann an Bundesinnenminister, 12-05-1985.

residence. The frames of the refugee support groups and individuals are mainly considered with the social class of the Christian asylum seekers from Turkey and the difficulty to interpret political persecution.

There are two frames that depicted the social class of the Christian minorities. First, the humanitarian frame was mainly used in regard to the asylum seekers' situation in West Germany, because they would live in anxiety and uncertainty, without the right to move freely and to take up work²⁶⁶. Such "psychological and physical burdens"²⁶⁷, resulted from waiting in "enforced inactivity and lack of clarity [which is] wearing"²⁶⁸. Long procedures as well as unequally distributed protection status within families²⁶⁹ made a "meaningful and secured personal life planning [...] impossible"²⁷⁰. Also, with regards to their situation in Turkey, humanitarian issues were mentioned such as the threat of "exceeding danger for life and limb"²⁷¹ upon return and the "Turkish nationalistic policies". The Turkish policies would legitimate oppressing the ethno-religious minorities which would result in a loss of identity and religion, especially affecting children who could not visit their own ethno-religious schools²⁷². Secondly, the moral frame of having a responsibility as a Christian country to step up for Christians in need²⁷³ clearly highlighted the religion as an integrated part of their social class²⁷⁴. Appeals to "our government – a government of a Christian country [to not send back] these fellow Christians, who have sought refuge"²⁷⁵, were often linked with arguments revealing dichotomies between Christians and Moslems. On the one hand, the

²⁶⁶ Inter alia, BA, BMI, B 106-90287, Mitglied des Landtags Baden-Württemberg Erlewein and Innenminister Baden-Württemberg, 02-07-1982.

²⁶⁷ BA, BMI, B 106-90287, Dekanat Konstanz u.a. an Bundesinnenminister, 07-03-1983.

²⁶⁸ "erzwungene Untätigkeit und die Unklarheit [die] zermürbend" ist, BA, BMI, B 106-101022, Diakonisches Werk an Bundesinnenministerium, 05-02-1985

²⁶⁹ BA, BMI, B 106-101022, Pfarrer Diestelmann, Beauftragter der Braunschweigischen ev.-luth. Landeskirche für die Kontakte zu den syrisch-orthodoxen Christen an den Bundespräsidenten, 17-05-1985.

²⁷⁰ "sinnvolle und gesicherte Lebensplanung [...] diesen Familien weiterhin unmöglich", BA, BMI, B 106-101023, Pfarrverband Kehl-Hanauerland und Caritas Verband Kehl an MdB Schäuble, 29-10-1985.

²⁷¹ "äußerste Gefahr für Leib und Leben", BA, BMI, B 106-90286, Aktionsgemeinschaft zugunsten der um Asyl in der BRD nachsuchenden syrisch-orthodoxen Christen an das Bundesinnenministerium, 17-02-1981.

²⁷² BA, BMI, B 106-90290, Gesellschaft für bedrohte Völker an Bundeskanzler, BAFI und Bundesinnenminister, 07-11-1983.

²⁷³ Same arguments were used by pressure groups in the Netherlands, Walaardt, 'From heroes to vulnerable victims', 1206.

²⁷⁴ "Gewissensgründe", BA, BMI, B 106-90287, Evangelischer Kirchengemeinderat Konstanz an Bundesinnenminister, 18-03-1983.

²⁷⁵ "unsere Regierung – die Regierung eines christlichen Landes, diese Mitchristen, die hier Zuflucht gesucht haben", BA, BMI, B 106-90287, Arbeitsgemeinschaft christlicher Kirchen und Gemeinden in Heilbronn an Bundesinnenministerium, 06-10-1982.

Muslim threat in Turkey²⁷⁶ was mentioned blaming “fanatic” and “militant Moslems”²⁷⁷ or the Islamic Turkish state for discriminating and persecuting Christians. On the other hand, some lobbyists counter-framed the Christian asylum seekers with the Muslim community – a “foreign object”²⁷⁸ – in West Germany, requesting that “Christian refugees” would not be put “on the same level [... with] Muslim asylum seekers”²⁷⁹. Interestingly, in these sources the cultural rationales of the asylum seekers’ social class²⁸⁰ are overrepresented. Economic rationales, such as clarifying that the Christians from Turkey were not bogus asylum seekers²⁸¹ or mentioning their good integration performance²⁸², were hardly stressed. It remains open, why economic characteristics did not gain as much ground in these letters, however we can observe the same trend in framing asylum seekers as Walaardt discovered: the Christian asylum seekers from Turkey were pitiable victims deserving to be granted a stay²⁸³.

Furthermore, the refugee support groups applied frames surrounding political persecution and critique of the authorities. These claims reflect the difficulty of interpreting the right of asylum. Almost every interest group reinforced that all Christian minorities²⁸⁴ were indeed “politically persecuted because of religious reasons”²⁸⁵. Some related the severe discrimination of nowadays with the persecution experienced in the past, since there is “no doubt and international historians do not contest that the Christians in Turkey have been exposed to severe persecution in their history”²⁸⁶. In addition, these statements sometimes

²⁷⁶ BA, BMI, B 106-90286, Syrisch-orthodoxe Kirche in Nordrhein-Westfalen und Rheinland an alle Bundestagsabgeordneten, n.d., 1980.

²⁷⁷ “wir können uns einfach dieser Verantwortung nicht entziehen und die Christen den militanten Moslems überlassen.” BA, BMI, B 106-90286, Rechtspolitischer Sprecher FDP an Bundesinnenminister, 22-05-1981; BA, BMI, B 106-90288, Zentralkomitee der deutschen Katholiken an Bundesinnenministerium, 23-06-1983.

²⁷⁸ BA, BMI, B 106-90288, Evangelisches Dekanat Heilbronn an Bundesinnenminister, 26-07-1983; BA, BMI, B 106-90288, Evangelisches Dekanat Heilbronn an Ministerpräsident Baden-Württemberg, 26-07-1983

²⁷⁹ “auf eine Stufe [...mit] moslemischen Asylbewerber”, BA, BMI, B 106-90287, Deutsche Sektion der Internationalen Juristen Kommission e.V. an MdB Voigt, 15-12-1982.

²⁸⁰ Bonjour and Chauvin, ‘Social Class’, 6.

²⁸¹ BA, BMI, B 106-90286, Pfarrer Diestelmann, Beauftragter der Braunschweigischen ev.-luth. Landeskirche für die Kontakte zu den syrisch-orthodoxen Christen an den Bundespräsidenten an Ministerpräsident Niedersachsen, 07-01-1981; BA, BMI, B 106-90287, Ratsmitglied der Gemeinde Wilnsdorf an Bundeskanzler, 27-02-1982 and 20-12-1982; BA, BMI, B 106-90288, Zentralkomitee der deutschen Katholiken an Bundesinnenministerium, 23-06-1983; BA, BMI, B 106-90286, Syrisch-orthodoxe Kirche in Nordrhein-Westfalen und Rheinland an alle Bundestagsabgeordneten, n.d., 1980.

²⁸² Inter alia, BA, BMI, B 106-90286, Evangelische Kirche Eggenstein an Petitionsausschuss des Landtages Stuttgart, 04-02-1981; BA, BMI, B 106-90287, MdB Hoffmann an Bundesinnenminister, 10-02-1982

²⁸³ Walaardt, ‘From heroes to vulnerable victims’, 1214.

²⁸⁴ Same arguments were used by pressure groups in the Netherlands, Walaardt, ‘From heroes to vulnerable victims’, 1206-1208.

²⁸⁵ BA, BMI, B 106-90286, Evangelische Kirche Eggenstein an Petitionsausschuss des Landtages Stuttgart, 04-02-1981; BA, BMI, B 106-117730, Gesellschaft für bedrohte Völker u.a. an Ministerpräsident Baden-Württemberg, 16-10-1984.

²⁸⁶ “gibt es keine Zweifel und wird von internationalen Historikern nicht bestritten, daß die Christen in der Türkei in der Geschichte schwerste Verfolgungen ausgesetzt waren.” BA, BMI, B 106-90287, Diakonisches Werk and Caritasverband an Bundeskanzler, 02-11-1982.

opposed the official rhetoric of Istanbul, representing an internal flight alternative and that the overall situation had improved since the change of government in September 1980²⁸⁷. Prevalent was the pressure groups' critique of the asylum procedure²⁸⁸. This included its prolonged length²⁸⁹ and the decisions being made at BAFI²⁹⁰ which was accused of applying a "lawnmower-method, making a clean sweep"²⁹¹. The BAFI was viewed to be mal-informed due to using apparently biased reports issued either by the Federal Ministry of Foreign Affairs or third parties²⁹². Quite a lot of actors questioned the appeals done by the Federal Commissioner for Asylum Affairs, who "only appeals against but never in favour of Christians"²⁹³ and demanded the BMI to direct him to stop appealing against positive decisions²⁹⁴.

These two claims, including the references to jurisprudence do not only show how the struggle over the interpretation of political persecution and implementation of the asylum law transcended from the political and judicial into the societal realm, but also the professionalisation of the refugee support groups²⁹⁵. A lot referred to their expert authority, having either been in touch with Christian asylum seekers from Turkey or having travelled to Turkey themselves²⁹⁶ as well as handed over various alternative reports. Especially, the organised refugee support groups, such as the Red Cross, could base their authoritative claims on their own "know-how in social work with refugees and asylum seekers for many years"²⁹⁷.

²⁸⁷ BA, BMI, B 106-90289, MdB Vollmer an Bundesinnenminister, 29-11-1983; BA, BMI, B 106-90290, Gesellschaft für bedrohte Völker an Bundeskanzler, BAFI und Bundesinnenminister, 07-11-1983 and 20-08-1984.

²⁸⁸ Inter alia BA, BMI, B 106-90287, Mitglied des Landtags Baden-Württemberg Erlewein and Innenminister Baden-Württemberg, 02-07-1982. Same arguments were used by pressure groups in the Netherlands, Walaardt, 'From heroes to vulnerable victims', 1208-1210.

²⁸⁹ BA, BMI, B 106-90290, Rechtsanwalt an Bundesministerium für Arbeit und Sozialordnung, 02-09-1981.

²⁹⁰ BA, BMI, B 106-90287, MdB Hoffmann an Bundesinnenminister, 10-02-1982.

²⁹¹ "Rasenmähermethode klar Schiff machen", BA, BMI, B 106-90287, Ratsmitglied der Gemeinde Wilnsdorf an Bundeskanzler, 27-02-1982 and 20-12-1982.

²⁹² BA, BMI, B 106-90287, Ratsmitglied der Gemeinde Wilnsdorf an Bundeskanzler, 27-02-1982 and 20-12-1982; BA, BMI, B 106-90285, Juristische Dokumentation der Zentralen Dokumentationsstelle der freien Wohlfahrtshilfe, 04-08-1982; BA, BMI, B 106-90289, Pfarrer Diestelmann, Beauftragter der Braunschweigischen ev.-luth. Landeskirche für die Kontakte zu den syrisch-orthodoxen Christen an den Innenminister von Niedersachsen, 11-04-1984.

²⁹³ "der nur gegen, aber nie für die Christen in die Instanzen geht", BA, BMI, B 106-90289, N.A. Gespräch Bundesinnenminister, 18-01-1984; BA, BMI, B 106-90286, Syrisch-orthodoxe Kirche in Nordrhein-Westfalen und Rheinland an alle Bundestagsabgeordneten, n.d., 1980.

²⁹⁴ BA, BMI, B 106-90287, Caritasverband an Bundesinnenministerium, 07-12-1982.

²⁹⁵ Walaardt, *Geruisloos inwilligen*, 324.

²⁹⁶ BA, BMI, B 106-90287, MdB Hoffmann an Bundesinnenminister, 10-02-1982; BA, BMI, B 106-90287, Schnellbrief des Diakonisches Werks an mehrere Empfänger, 27-09-1982; BA, BMI, B 106-90288, Zentralkomitee der deutschen Katholiken an Bundesinnenministerium, 23-06-1983.

²⁹⁷ BA, BMI, B 106-90290, Deutsches Rotes Kreuz an IMK, 30-08-1984.

In general, these frames and arguments were grouped around issues of morality²⁹⁸ whereby the refugee support groups positioned themselves as moral authorities. This was visible in warnings to “flout our supreme court”²⁹⁹ and in remembering the moral obligations for refugees inherited from the Nazi-past³⁰⁰. When the refugee support groups based their claims on morality, they indirectly accelerated the liberal paradox upholding the generous right of asylum in the Basic Law which collided with the “non-immigration country” paradigm.

Claims by the responding state authorities

In general, the BMI used legalist frames, explaining the asylum procedure, its legal base and the independent decision-makers at BAFI whose rejections and admissions of asylum applications were only to be controlled by the courts³⁰¹. Also, the role of the Federal Commissioner for Asylum Affairs was clarified several times³⁰², and various courts’ decisions were announced and interpreted³⁰³. Throughout these years, the ministry reassured that there was no immediate danger of any rejected Turkish citizen of Syrian-Orthodox faith being returned, either because all of their cases were still pending at court or at the BAFI³⁰⁴, or due to the temporary deportation bans passed by the federal states³⁰⁵. Furthermore, the negotiation process between government and federal states to find an alternative right to stay was frequently addressed³⁰⁶. The responses do not give us an idea about the ministry’s standing in the case of the Christian asylum seekers from Turkey. However, they reveal much about its position in the multi-level interplay as discussed below.

In contrast to the BMI’s answers, the few responses available from federal states clearly reveal their positions. While Nordrhein-Westfalen implemented liberal asylum policies³⁰⁷, Bavaria argued inter alia with the economic burden of asylum seekers and possible

²⁹⁸ Walaardt, ‘From heroes to vulnerable victims’, 1210-1214.

²⁹⁹ “Missachtung unseres obersten Gerichtes”, BA, BMI, B 106-117730, Gesellschaft für bedrohte Völker u.a. an Ministerpräsident Baden-Württemberg, 16-10-1984.

³⁰⁰ BA, BMI, B 106-90286, Syrisch-orthodoxe Kirche in Nordrhein-Westfalen und Rheinland an alle Bundestagsabgeordneten, n.d., 1980; BA, BMI, B 106-90288, Einzelperson an Parlamentarischen Staatssekretär, 10-08-1983.

³⁰¹ Inter alia, BA, BMI, B 106-90286, Referat V II 3 an MdB Emmerlich, 17-02-1981.

³⁰² “Auseinanderlaufen der Entscheidungspraxis der weisungsunabhängigen Entscheider [...] sowie der Verwaltungsgerichte entgegenzuwirken [...] und] obergerichtl Klärung herbeiführ[t]”, BA, BMI, B 106-101023, Referat V II 3 an CDU Fraktion Bremen, 10-12-1985.

³⁰³ Inter alia, BA BMI; B 106-90290, Referat V II 3 an Einzelperson, 12-10-1984.

³⁰⁴ Inter alia BA, BMI, B 106-90286, Referat V II 5 an den rechtspolitischen Sprecher der FDP, 09-06-1981; BA, BMI, B 106-90287, Referat V II 3 an Diakonisches Werk, 07-10-1982.

³⁰⁵ Inter alia BA, BMI, B 106-90287, Referat V II 3 an MdB Hennig, 29-04-1983

³⁰⁶ BA, BMI, B 106-90287, Referat V II 3 an Caritasverband, 29-12-1982.

³⁰⁷ BA, BMI, B 106-90288, Innenministerium Nordrhein-Westfalen an das Zentralkomitee der deutschen Katholiken, 08-08-1983.

pull-effects³⁰⁸, whereas Niedersachsen referred to the Federal Republic's limited reception capacities and that not every minority "suffering from difficulties customary in a country" could be taken in³⁰⁹. Framing asylum seekers as economic burdens and threats to the society is a commonly used topos in debating immigration³¹⁰. The frames also show how asylum policies were materialised on the federal state level which had to handle the financial and practical dimension of the asylum procedure while experiencing the outcomes of the recession the most. Here the clashes of the frames applied by the refugee support groups and the federal states are clearly detectable, explaining why the case of the Christian asylum seekers was disputed between civil society and the political level.

The lobby relationship of the refugee support groups

Analysing the relational dimension of the interplay between the fragmented refugee support groups and state authorities reveals strategies and the positions of actors as well as the distribution of power in the contention of the case of the Christian minorities.

Most dominant is the lobby relation whereby the refugee support groups intended to influence the political and sometimes also legal outcomes to the advantage of the Christian asylum seekers from Turkey. They used persuasive, appellative and opposing strategies, highlighting the moral responsibility, the humanitarian character, the wrongdoings of officials and the defects of the asylum procedure. Basing their claims on their own experience and data collections³¹¹, they succeeded in pressuring the authorities to deal with the Christians from Turkey³¹². The refugee support groups assumed that their reports had caused a temporary shift in the BAFI's decision-making in 1980³¹³, as such they continued to feed the government with information and to interpret jurisprudence accordingly. They offered their knowledge, as an "expression of [their] willingness to cooperate, searching for a responsible and viable solution for the asylum seekers from Turkey"³¹⁴. Especially the role of the

³⁰⁸ BA, BMI, B 106-90288, Staatskanzlei Bayern an das Zentralkomitee der deutschen Katholiken, 15-07-1983; Similarly answered, BA, BMI, B 106-90288, Senator für Inneres Berlin an das Zentralkomitee der deutschen Katholiken, 19-07-1983.

³⁰⁹ BA, BMI, B 106-117730, Innenminister Niedersachsen an die Gesellschaft für bedrohte Völker, 01-12-1984.

³¹⁰ Walaardt, 'From heroes to vulnerable victims', 1212f.; Schrover and Schinkel, 'language of inclusion and exclusion', 1129f.; Zetter, 'More Labels, Fewer Refugees', 185.

³¹¹ BA, BKAm, B 136-16707, Protokoll Gespräch Generalsekretär des ökumenischen Rates und der Bundeskanzler, 10-10-1979.

³¹² Similarly reported in Walaardt, 'From heroes to vulnerable victims', 1200.

³¹³ BA, BMI, B 106-90287, Schnellbrief des Diakonisches Werks an mehrere Empfänger, 27-09-1982.

Merten similarly assesses the impact of the pressure groups, Merten, *Die syrisch-orthodoxen Christen*, 153.

³¹⁴ "Ausdruck von Kooperationsbereitschaft bei der Suche nachverantwortbaren und gangbaren Lösungen für die Asylsuchenden aus der Türkei", BA, BMI, B 106-90285, Diakonisches Werk an BAFI 21-05-1982.

churches was crucial since they represented a well-established player in the political realm, although politically close to the ruling CDU/CSU (after 1982), they openly disapproved the parties' immigration policies³¹⁵. As a lawyer pointed out, the churches would “not tolerate a forceful mass deportation of the Syrian-Orthodox minority, because there are humanitarian solutions in Sweden and in the Netherlands”³¹⁶. Their societal authority was visible in meetings with the chancellery and the BMI, but also when the Diakonisches Werk initiated a coordination meeting amongst the political players, positioning themselves as an equal actor³¹⁷. Additionally, they did not only use their influence within the German political realm but also maintained connections with Turkish churches and authorities³¹⁸ thus practising some sort of foreign policies on their own. The refugee support groups formed an alliance in their fight for legalising the stay of the Christians from Turkey. They quoted and referred to self-published reports circulating amongst them³¹⁹, pushed for solutions in joint actions and stressed the amount of supporters from within society³²⁰. Due to this collectively and precisely formulated interest as well as the closely maintained lobby relationships with policymakers, the interactions between state and civil society can be defined as “the typical mode of immigration politics, [...that] is client politics.”³²¹. We can assert that these client politics of the well-organised refugee support groups, in the role of a societal authority, contributed to the contestation of the case of the Christian asylum seekers from Turkey.

The BMI channelled the lobby relationship through referring responsibility to other actors, external from the ministry (courts, BAFI, Federal Commissioner, Federal Ministry of Foreign Affairs, federal state level). Also, through conciliatorily affirming the lobbyists' concern of the Christians' “difficult situation [...] in a majorly Muslim environment”³²². Yet,

³¹⁵ Especially the practice of church asylum has been grounds for conflict starting in the early 1980s, Minkenberg, ‘Religious Legacies’, 372f.

³¹⁶ “Kirchen werden eine zwangsweise Massenabschiebung syrisch orthodoxer Christen nicht zulassen, nachdem humanitäre Regelungen in den Niederlanden und Schweden bereits gefunden wurden”, BA, BMI, B 106-90287, Rechtsanwalt an MdB Hennig, 15-03-1983. In the Netherlands and in Sweden rejected Christian applicants from Turkey mostly received an alternative residence permit (B-status), see Atto, *Hostages in the homeland*, 192f.; Walaardt, ‘From heroes to vulnerable victims’, 1203, 1205.

³¹⁷ BA, BMI, B 106-90287, Schnellbrief des Diakonisches Werks an mehrere Empfänger, 27-09-1982.

³¹⁸ One source mentions the Turkish ambassador being in touch with respective churches, BA, BKAm, B 136-16707, AA an den türkischen Botschafter Vahit Ealefogl in Bonn, 08-01-1980; Another source implies that the churches had channels to address the situation of the Christians in Turkey “themselves”, BA, BKAm, B 136-16707, Auszug des Gesprächs Binder mit Schüler, 24-08-1979.

³¹⁹ BA, BMI, B 106-90290, Survival International deutsche Sektion an Innenminister Hessen, 02-08-1984.

³²⁰ For example, 3.916 people signed an “open letter”, including members of parliament from the SPD and the Green party, representatives from national churches, charities and parishes as well as public persons, BA, BMI, B 106-90289, Gesellschaft für bedrohte Völker an Bundesinnenminister, 19-03-1984.

³²¹ According to Freeman (1995) quoted in Bonjour, ‘The Power and Morals of Policy Makers’, 93.

³²² “schwierige Situation [...] in einer überwiegend moslemischen Umwelt hat zu einer unterschiedlichen Einschätzung [...der] politische Verfolgung geführt”, inter alia, BA, BMI, B 106-90287, Referat V II 3 an Vizepräsident des Bundestags Windelen, 31-01-1983.

despite the “de-facto disadvantages” for Christians in Turkey, the BMI claimed that the BAFI and many courts would not assert political persecution in opposition to the opinions of churches and charity organisations³²³. With this strategy, the BMI did not reveal in its “vacuous responses”³²⁴ if the lobbyists’ requests had any impact but tried to buffer the contestation of the case of the Christian asylum seekers from Turkey. Here we see the BMI’s relational position in the multi-level interplay, having to juggle the plural actors and their interests therefore taking a coordinating role, hoping to create political and societal consensus³²⁵. Those few responses from the federal states reveal that they were strongly affected by the practical consequences of asylum policies thus putting forward material arguments as defined by Bonjour³²⁶.

Apart from this strong lobby relationship, information relationships occurred, especially when Members of Parliament (MPs) approached the BMI asking for a statement, clarification or further information³²⁷. The MPs evolved as brokers mediating, transmitting and channelling the claims and requests from the interest groups to the federal level according to their democratic duty as elected representatives. Most often the files contain answers from the BMI to the MP, not necessarily the MP’s response to the voter. Most replies (from BMI to MP, or MP to interest group) are less formal as in comparison to the responses from the BMI to pressure groups which signals the MP’s bridging function between civil society and the political realm. Some MPs also approached the BMI in the role of refugee supporters³²⁸. To summarise, the mediating role of the MPs transported the topic to the federal level, while sometimes forwarding the refugee support groups’ lobby relation, at other times they converted it into an information relationship.

So, we can assert, that the refugee support groups established a powerful lobby relationship through creating a strong network amongst themselves, constantly approaching the state actors, using impactful morality frames and through acting as a societal authority in the political sphere as well as experts on the case of the Christian asylum seekers from Turkey,

³²³ “de facto Benachteiligungen”, inter alia BA, BMI, B 106-90287, Referat V II 3 an evangelisches Dekanat Konstanz, 15-04-1983.

³²⁴ “nichtssagende Briefe”, BA, BMI, B 106-90287, Ratsmitglied der Gemeinde Wilnsdorf an Bundeskanzler, 27-02-1982 and 20-12-1982.

³²⁵ As much as ministries today take a mediating role between civil society, interest groups and the public with decision-makers, this has already occurred in the case of the Christian minorities in the early 1980s, Machura, Stefan, ‘Ministerialbürokratie’, *Bundeszentrale für politische Bildung*, 2013, <http://www.bpb.de/nachschlagen/lexika/handwoerterbuch-politisches-system/202070/ministerialbuerokratie?p=all> (23-04-2019); Schneider, *Modernes Regieren und Konsens*, 61, 66.

³²⁶ Bonjour, ‘The Power and Morals of Policy Makers’, 115-117.

³²⁷ Inter alia, BA, BMI, B 106-101022, MdB Susset an Bundesinnenminister, 29-07-1985.

³²⁸ E.g. BA, BMI, B 106-90287, Referat V II 3 an MdB Hoffmann, 17-03-1982.

also with the help of the mediating MPs. Although the BMI externalised its responsibility in the responses, it took responsibility in creating consensus.

3.3. The intergovernmental interplay denying collective political persecution

In the following, the roles of the Federal Ministry of Foreign Affairs (AA) and BAFI are assessed, paying special attention to the claims being made in their correspondence with other actors, mainly with the BMI, as well as the relational dimension of their interactions. Before analysing their claims and relationships, the body of sources and respective actors are outlined, starting with the AA.

3.3.1. The impact of foreign affairs

The interactions considered here mainly focus on the communication between the AA with the German embassies and consulates, the courts and the BMI. There is correspondence with German embassies in the Middle Eastern Region, obviously often with the Turkish diplomatic representation, and with German embassies in Western Europe, especially Sweden and the Netherlands.

68 interactions³²⁹ form the basis of the analysis, which also include a few documents from the chancellery of which we can assume that the BMI would have known about since the BMI was either mentioned or the type of document was usually of concern to the BMI (e.g. reports from German consulates and embassies have been frequently found in the files of the BMI).

Table 5. *Communication between the Federal Ministry of Foreign Affairs (AA) and others*

| Actors | Number of documents exchanged with the Federal Ministry of Foreign Affairs (AA) |
|---|---|
| Interior (BMI) | 21 |
| German consulates and embassies | 29 |
| Courts | 12 |
| Others (Syrian-Orthodox Archbishop, Turkish & Swedish ambassadors) | 6 |
| Other documents, indirectly representing a relationship between the ministry and other actors | |
| Reports | 1 |
| Internal notations | 1 |

³²⁹ 1979 (7), 1980 (11), 1981 (10), 1982 (11), 1983 (11), 1984 (8), 1985 (10).

Framing the asylum seekers and the situation in Turkey

The frames and claims of the German embassies and the AA stated that the Christian minorities were not persecuted and as such not in need of refugee status confirming that international relations impacted their assessment.

The case of the Christian asylum seekers from Turkey was contested because the West German diplomatic representatives in the Middle East³³⁰ as well as in Western European countries reported that Christian minorities were not persecuted and that they were not in need of asylum. Assumingly, the Christian asylum seekers left for economic reasons, since the overall situation was difficult in Turkey. Only some of them being “genuine refugees”³³¹, whereas Turkish asylum seekers in general might “tactically” “use religious reasons to gain easier and prompt asylum”³³². Framing asylum seekers as economic refugees was popular in the German and European³³³ public and closely linked to the general perception of an abuse of the right of asylum by Turkish nationals. A similarly widespread frame that the German embassies applied, depicted the entrance of this group of asylum seekers as a threat³³⁴. This seemed to have caused Sweden to no longer “keep up the measure [to grant all of them humanitarian residence], since the number of inflowing refugees became too big”³³⁵. As such, the German embassies emphasised that a stay in Turkey was possible, because even clerical representatives in Turkey encouraged their parishioners “to not leave their inherited homeland”³³⁶ as well as the pope who did not think that ecclesiastical and Christian life was endangered in Turkey³³⁷. These statements matched well with the idea of having to save Christianity in Turkey because “every approved asylum request is a stroke against Christianity in Turkey”³³⁸. The remaining Christians were advised to adjust to societal change transforming the Ottoman Empire to a Turkish nation-state and not to weaken their communities

³³⁰ BA, BMI, B 106-90286, Deutsche Botschaft Teheran an AA, 23-02-1981; BA, BMI, B 106-90286, Deutsche Botschaft Damaskus an AA, 23-02-1981; BA, BMI, B 106-90286, Deutsche Botschaft Ankara an AA, 11-02-1981; BA, BMI, B 106-90286, Deutsche Botschaft Bagdad an AA, 03-03-1981.

³³¹ “nur wenige echte Flüchtlinge”, BA, BMI, B 106-90287, Deutsche Botschaft Stockholm an AA, 23-11-1982.

³³² “religiöse Gründe vorschieben würden, um auf diese Weise leichter und bedenkenloser Asyl gewährt würde”, BA, BMI, B 106-90289, Deutsche Botschaft Paris an AA, 25-07-1983

³³³ Walaardt, *Geruisloos inwilligen*, 328; Zetter, ‘More Labels, Fewer Refugees’, 178, 185.

³³⁴ For the Dutch context see Walaardt, *Geruisloos inwilligen*, 327; Walaardt, ‘From heroes to vulnerable victims’, 1209.

³³⁵ “nicht durchhalten können, weil die Zahl der einströmenden Flüchtlinge einfach zu groß geworden sei”, BA, BMI, B 106-90287, Deutsche Botschaft Stockholm an AA, 23-11-1982.

³³⁶ “unterstützt, gelobte der Bischof [...] Gemeindegliedern zuzureden, die angestammte Heimat nicht zu verlassen”, BA, BMI, B 106-101022, Deutsches Generalkonsulat Istanbul an AA, 27-02-1985.

³³⁷ BA, BKAm, B 136-16707, Deutsche Botschaft beim Heiligen Stuhl an AA, 10-12-1979.

³³⁸ “[...] jeder bewilligte Asylantrag ist ein Schlag gegen das Christentum in der Türkei”, BA, BKAm, B 136-16707, Deutsche Botschaft Ankara an AA, 12-11-1979.

through emigration³³⁹. Preventing emigration³⁴⁰ seemed to be the major concern of the German embassy in Ankara for several reasons. First, regarding the consequences for West Germany, it seemed to be crucial to minimise admissions representing possible threats and apparently abusing the right of asylum. Secondly, referring to the international relations with Turkey, which were only mentioned sometimes³⁴¹, the diplomats argued that addressing the difficulties of the Christians to the Turkish government³⁴² would worsen their situation, since the “Turkish nationalism is not considerate when it comes to questions of integrity”³⁴³. Thus, they conformed to the practice of “silent diplomacy” in Turkish policies³⁴⁴, aiming to stabilise the two countries’ relationship.

The responses of the AA to different actors mentioned above, often contained a simple exchange of information. However, in an equal number of replies, the ministry used similar frames as the German embassies stating that Christian asylum seekers from Turkey would not suffer from persecution³⁴⁵. A legalist frame was used claiming that the Turkish laws would protect the minorities and that there are no policies discriminating against Christians³⁴⁶. Moreover, the AA tried to relativise the situation³⁴⁷ of the Christians. The ministry referred to “common hardships” for internal migrants, not being related to their religion³⁴⁸, and claimed that Christians would live under “above-average economic conditions”³⁴⁹. Furthermore, subordinating to this assimilation “pressure” was seen as reasonable and discrimination was self-made³⁵⁰. The ministry legitimised their frames with statements from clerical leaders in Turkey³⁵¹ and dismantled contradicting reports³⁵². The AA did not mention its

³³⁹ BA, BKAm, B 136-16707, Deutsche Botschaft Ankara an AA, 12-11-1979.

³⁴⁰ BA, BMI, B 106-101022, Deutsches Generalkonsulat Istanbul an AA, 27-02-1985

³⁴¹ Overall mentioned five times, e.g. BA, BMI, B 106-90287, Deutsche Botschaft Ankara an AA, 25-10-1982.

³⁴² BA, BKAm, B 136-16707, Deutsche Botschaft Ankara an AA, 12-11-1979.

³⁴³ “Türkisches Nationalempfinden in Fragen der Integrität des Landes Rücksichtnahmen nicht kennt”, BA, BMI, B 106-90287, Deutsche Botschaft Ankara an AA, 04-10-1982.

³⁴⁴ Weick, *Die schwierige Balance*, 222.

³⁴⁵ Inter alia BA, BMI, B 106-90290, AA an VGH Hessen, 30-07-1984.

³⁴⁶ E.g. BA, BMI, B 106-90286, AA an VG Minden, 22-08-1980.

³⁴⁷ Münch, *Asylpolitik in der Bundesrepublik*, 188-192.

³⁴⁸ “normalen Beschwerden”, BA, BMI, B 106-90289, AA an Bundesinnenministerium, 10-01-1984.

³⁴⁹ “überdurchschnittliche wirtschaftliche Verhältnisse”, BA, BMI, B 106-101023, AA an VG Wiesbaden, 16-12-1985.

³⁵⁰ for example, if “a Christian demonstratively shows the fact of believing, innuendos and assaults from comrades cannot be waived.” (“Sollte ein Christ die Tatsache seines Glaubens demonstrativ deutlich machen, so sind Sticheleien und gelegentliche Übergriffe seiner Kameraden nicht auszuschließen”) BA, BMI, B 106-90290, AA an VGH Hessen, 30-07-1984.

³⁵¹ Very prominent was a letter from the Syrian-Orthodox Archbishop from Tur Abdin and Mardin written to the Minister of Foreign Affairs, stating that traffickers would stimulate emigration to Germany, which is “heaven on earth”, BA, BMI, B 106-117730, Archbishop of the Tur Abdin and Mardin to Minister of Foreign Affairs, 30-09-1985.

³⁵² Inter alia, BA, BMI, B 106-90289, AA an Bundesinnenministerium, 10-01-1984.

material interest³⁵³ in preserving the relationship with Turkey in these documents which had to serve as objective evaluations. However, looking at the sensitive issue which was not to be mentioned in meetings between West German and Turkish politicians³⁵⁴, it is clear that international relations impacted the case of the Christian minorities in the Federal Republic. Comparing the German embassies' and the AA's statements demonstrates that the AA used arguments to deny political persecution whereas the embassies hoped to stop emigration from Turkey as such. However, both contributed to the contestation of the case of Christian asylum seekers from Turkey because they indirectly shielded the Turkish government from being confronted with human rights abuses directed at the Christian minorities (at least critique could not be based on their evaluation) and thus helped to maintain a positive relation between the two countries. Their reports got increasingly publicly contested, reflecting the struggle between the different actors over the "interpretation of reality"³⁵⁵. This was also visible, in the cleavage between saving Christianity in Turkey versus protecting Turkish Christians in West Germany.

Beyond national relations

Between the AA and BMI there was a cooperative information relationship, because neither of them was in a position to issue directives to the other ministry. However, both depended on a well-functioning exchange of information on national and international developments between them. The BMI emphasised the importance of the reports that the AA provided for the courts, the BAFI and the Federal Commissioner deciding on asylum³⁵⁶. Also, the AA needed information from the BMI to equip their embassies when meeting with diplomatic representatives from other countries and having to discuss asylum matters³⁵⁷. The sources analysed here, hide the different material interests³⁵⁸ of the two ministries, which must have been conflictual knowing that the BMI had to coordinate finding a political solution which would possibly affront Turkey.

³⁵³ Bonjour, 'The Power and Morals of Policy Makers', 115-117.

³⁵⁴ "Das Thema sollte nicht angesprochen werden (kann mit türkischen Regierung nicht erörtert werden und würde Verstimmungen auslösen)", BA, BMI, B 106-93422, Referat V II 1 Vermerk Besuch des Herrn Ministers in Ankara am 10./11. Februar 1983, 21-01-1983.

³⁵⁵ Bonjour, *Grens en gezin*, 18f.

³⁵⁶ e.g. VH Berlin "Es ist davon auszugehen, daß die Einstellung des Auswärtigen Amtes gegenüber dem Vorgehen der türkischen Militärregierung den Inhalt seiner Auskünfte beeinflusst [...] keine sonderliche Bedeutung beizumessen." BA, BMI, B 106-90285, Schlagwort Register Jurdat, 04-08-1982; BA, BMI, B 106-90285, Juristische Dokumentation der Zentralen Dokumentationsstelle der freien Wohlfahrtshilfe, 04-08-1982.

³⁵⁷ BA, BMI, B 106-90287, Fernschreiben AA an Bundesinnenministerium, 23-03-1983; BA, BMI, B 106-90286, Bundesinnenministerium an AA, 01-12-1981.

³⁵⁸ Bonjour, 'The Power and Morals of Policy Makers', 115-117.

Although all the communication went through the AA, the German embassies delivered the information on the basis of a directive relationship and immensely affected decision-making on a political, judicial and personal level. For example, the political level based their negotiations for an alternative option of residence on the embassies' reports from other European countries, stressing "that it will be significant how other European countries view the situation of Turkish Christians"³⁵⁹. There was an exchange of information between Sweden, the Netherlands and West Germany which clearly shows the political significance of the case of Christian Turkish asylum seekers beyond national borders³⁶⁰. Since news on admissions³⁶¹ or trouble-making Christian asylum seekers³⁶² spread through the media and the respective communities across the borders, the European states had to balance national entrance and admission of these asylum seekers³⁶³. The constant fear of causing pull-effects with granting a right to stay might not only attract Turkish Christians from Turkey but also from other European countries, which eventually happened in summer and autumn 1984 when several asylum seekers flew first into Belgium and then travelled through the Netherlands to enter Germany (in Gronau). That is why, Sweden's and the Netherlands' policies regarding this group were either used by refugee support groups to promote an alternative stay³⁶⁴ or by state actors to reject it³⁶⁵.

The relational analysis of the intergovernmental interplay between BMI and AA does not add to a better understanding of the contested case of the Christian asylum seekers from Turkey. We know that there were conflicts, but they must have taken place between other divisions and departments. Yet, the inter-European communication in this case shows how the European dimension has affected national migration policies in the case of the Christian minorities and in the long run resulting in the Common European Asylum System.

3.3.2. Making decisions in the asylum procedure

There are 38 documents³⁶⁶ preserved in the files of the BMI, of which the BAFI issued 24. They majorly consist of communication between the BAFI and BMI, few letters between

³⁵⁹ BA, BMI, B 106-90287, Bundesinnenministerium an AA, 14-10-1982.

³⁶⁰ Within the set of sources dealing with Foreign Affairs, there are 13/10 documents dealing with Christian asylum seekers in Sweden/the Netherlands.

³⁶¹ BA, BMI, B 106-90287, Deutsche Botschaft Ankara an AA, 29-06-1982.

³⁶² BA, BMI, B 106-90286, Deutsche Botschaft Stockholm an AA, 22-12-1980.

³⁶³ E.g. The Swedish ambassador approached the AA for information on the Christian minorities in West Germany, BA, BMI, B 106-90286, Verbalnote schwedischer Botschafter an AA, 09-12-1980.

³⁶⁴ BA, BMI, B 106-90287, Rechtsanwalt an MdB Hennig, 15-03-1983.

³⁶⁵ BA, BMI, B 106-90289, Referat V II 3 Vermerk, 05-01-1984.

³⁶⁶ 1980 (1), 1981 (6), 1982 (4), 1983 (10), 1984 (9), 1985 (8).

the BMI and the Federal Commissioner and some parties handing in expert opinions³⁶⁷. Due to the small number of documents sent by other actors, their claims are not representative and have to be neglected in this research because we can assume that there was much more interaction with the BAFI and for example, the AA, refugee support groups and courts³⁶⁸. Before looking into the claims and relationships, the situation at the BAFI and the Federal Commissioner's work in the early 1980s are shortly outlined.

Table 6. *Communication between the Federal Office for the Admission of Foreign Refugees (BAFI) and other actors*

| Actors | Numbers of documents exchanged with the BAFI |
|--|--|
| Interior (BMI) | 24 |
| Courts | 3 |
| Federal states/cities | 3 |
| Others (AA, internal notation) | 3 |
| Documents exchanged between the Federal Commissioner and the BMI | |
| | 5 |

Following the legal amendments at end of the 1970s, the BAFI was restructured several times in order to quicken procedures and work more efficiently. This caused a backlash in the quality of their decisions as the director acknowledged in 1983³⁶⁹, a topic that is also occurring in the sources. In the 1980s, the Federal Commissioner for Asylum Affairs almost only appealed against admissions issued by the BAFI. In the case of Turkish asylum seekers of Kurdish and Christian minorities, the Federal Commissioner appealed against every admission in 1982, a signal, according to Münch, that the government tried to avoid confronting Turkey with human rights abuses³⁷⁰.

Framing the expertise in the assessment of the asylum seekers

The BAFI's communication with other actors is characterised by two dominant themes that occurred mostly in the interaction with the BMI. First, the quality of the BAFI's work and secondly, the BAFI's assessment of the situation in Turkey. In quite a lot of communication, no frames are detectable since they simply shared information.

³⁶⁷ Reports and expert opinions were not considered in this analysis.

³⁶⁸ Communication was found in other files in the federal archives, e.g. BMI, BA, BMI, 106-134126.

³⁶⁹ Dusch (1983, 171) quoted in Kreienbrink, '60 Jahre Bundesamt für Migration und Flüchtlinge', 402f.

³⁷⁰ Münch, *Asylpolitik in der Bundesrepublik*, 164-166.

The sources highlighted quite often the decision-makers' "detailed knowledge and overview", which they had gained through studying expert opinions and their own experiences with interviewing many asylum seekers, and that equipped them to assess the asylum seekers' "credibility"³⁷¹. So, "having dealt with the problem for years"³⁷² and being protected from "extraneous exertion of influence"³⁷³ guaranteed the quality of the independent decision-makers' assessment. Framing the decision-makers' expert authority in such a way essentially grounded the BAFI's assessment of the Christian asylum seekers from Turkey. This frame probably emerged as a response to the Immediate Action Programme from 1980, when asylum applications were no longer decided in committees but by independent decision-makers – an amendment that was widely criticised for lowering the quality of the BAFI³⁷⁴. The frame served to justify, legitimise and qualify the decision-makers' interpretation of the vague asylum law and specifically their judgement of the Christian applicants from Turkey.

After a short period of issuing admissions in autumn 1980, the BAFI denied a collective persecution throughout the following years, majorly basing its evaluation on a specific expert opinion, which the BAFI had ordered itself³⁷⁵. The decision-makers stated that it was irrelevant if collective persecution had happened in the past because of the "factual development after March 1981"³⁷⁶, indicating a "general improvement of the security situation"³⁷⁷ and considering Istanbul an internal flight alternative with few exceptions of individual persecution³⁷⁸. Similarly, the Dutch authorities rejected Christian applicants to the internal flight alternative in Istanbul³⁷⁹, however the BAFI's decision-makers emphasised much more the betterment of the situation after the change of government as in comparison to the Dutch officials. This clearly resembled the AA's narrative and the Turkish policies, cushioning the situation in Turkey and backing up its government³⁸⁰. Importantly, the decision-makers did not oppose that individual persecution happened but rejected the collective character of the persecution.

³⁷¹ BA, BMI, B 106-90288, BAFI an VG Hamburg, 17-10-1983.

³⁷² BA, BMI, B 106-90286, BAFI an Bundesinnenministerium, 01-12-1981.

³⁷³ Inter alia, "sachfremde Einflußnahme", BA, BMI, B 106-90290, BAFI an Bundesinnenministerium, 02-07-1984.

³⁷⁴ Kreienbrink, '60 Jahre Bundesamt für Migration und Flüchtlinge', 402.

³⁷⁵ BA, BMI, B 106-90286, BAFI an Bundesinnenministerium, 01-12-1981.

³⁷⁶ Here the BAFI refers to the Bavarian VGH decision being made in March 1981, therefore the revision at the BVerwG of August 1983 only considered the situation in Turkey until March 1981, BA, BMI, B 106-90288, BAFI an Bundesinnenministerium, 01-11-1983.

³⁷⁷ "allgemeine Besserung der Sicherheitssituation", BA, BMI, B 106-90288, BAFI an VG Hamburg, 17-10-1983.

³⁷⁸ BA, BMI, B 106-101022, BAFI to Bundesinnenministerium, 22-11-1984.

³⁷⁹ Walaardt, 'From heroes to vulnerable victims', 1205.

³⁸⁰ Szatkowski, *Die Bundesrepublik Deutschland*, 139.

These two frames confirm two central hypotheses explaining why the case of the Christian minorities was contested. First, they show how the BAFI tried to handle and justify the interpretation of the asylum law and secondly, how their arguments used to deny persecution were influenced by foreign interests.

Conflictual relationships in deciding upon asylum

The semi-directive and legitimation relationship between the BAFI and the BMI was also visible in this set of sources. In opposition to what we found in the BMI's internal communication, here the BMI never openly opposed the BAFI but rather affirmed its legitimate position³⁸¹. Yet, in these documents exchanged between the two entities, the expert authority and professionalism of the decision-makers was much more highlighted. They were neither being directed by their superiors nor anybody else³⁸² and did not even have to agree amongst themselves³⁸³. Hence, the decision-makers contributed to the contention of the Christian asylum seekers through unevenly interpreting political persecution and holding on to their immaterial interest³⁸⁴ of demonstrating their expertise. Furthermore, the legitimation relationship between the BAFI and the BMI contributed to the government's self-limited sovereignty.

The BAFI's powerful position was also revealed with regards to the judiciary. If an appeal was lodged at the courts, the courts had the task to control the decision-making, as such either confirming or bindingly correcting the BAFI³⁸⁵. The BAFI represented an opposing party in these legal proceedings, therefore defending "our decisions in front of court according to [our] best endeavours"³⁸⁶. Rejections from the courts were usually used to back up the decision-makers' argumentation whereas admissions were critically analysed³⁸⁷. For example, the BAFI criticised that some courts would not even differentiate between denominations³⁸⁸. Interpreting the courts' decisions was closely linked to the decision-makers' authority and expertise³⁸⁹ gained through "source[s] of knowledge of equal rank"³⁹⁰. Thus, the Federal Office confidently refused judicial requests to grant asylum and end the legal

³⁸¹ BA, BMI, B 106-90287, Bundesinnenministerium an BAFI, 14-10-1982.

³⁸² BA, BMI, B 106-90290, BAFI an Bundesinnenministerium, 02-07-1984.

³⁸³ BA, BMI, B 106-101022, BAFI an Bundesinnenministerium, 22-11-1984.

³⁸⁴ Bonjour, 'The Power and Morals of Policy Makers', 115-117.

³⁸⁵ BA, BMI, B 106-101022, BAFI an Bundesinnenministerium, 22-11-1984.

³⁸⁶ "unsere Entscheidungen vor Gericht nach Kräften", BA, BMI, B 106-101022, BAFI an Stadt Augsburg, 27-11-1984.

³⁸⁷ E.g. BA, BMI, B 106-101022, BAFI an VG Minden, 08-10-1985.

³⁸⁸ BA, BMI, B 106-101022, BAFI an Bundesinnenministerium, 22-11-1984.

³⁸⁹ BA, BMI, B 106-90288, BAFI an VG Hamburg, 17-10-1983.

³⁹⁰ "rangleiche Erkenntnisquelle" BA, BMI, B 106-90288, BAFI an VG Hamburg, 17-10-1983.

procedure³⁹¹. To summarise, the control relationship legally existed and was often emphasised by the BMI, in practice the BAFI was an autonomous entity, being able to reinterpret jurisprudence and the right of asylum according to their own legal understanding. This reinforced the contestation of the cases of Turkish Christians, since the BAFI represented an immensely powerful actor.

The contestation was very visible in the relationship between the BAFI and “charities, groups and individuals who have been dealing with the problem to a special degree”³⁹². These refugee support actors transferred expert opinions and reports to the BAFI. Thus, they seemed to have been in an information relationship contributing to the collection of information and data on the situation in Turkey. These reports often conveyed a clear-cutting argumentation pro existing political persecution in Turkey. The BAFI based its argumentation on sources being “contrary” to reports that demonstrated persecution³⁹³. Being aware of this potential conflict, the Federal Office calculated how to proceed with issuing rejections “in order to concentrate the expected protest of the Christian charities within a period as short as possible”³⁹⁴. The seemingly information relationship between BAFI and various refugee support expert groups, institutions and individuals resulted in actual conflicts over the application of the law of asylum, prevalent in the contradictory frames of the social class of the Christian asylum seekers and their situation in Turkey.

The conflict-laden relationships between the BAFI with the BMI, the judiciary and the refugee support groups uncover the manifestation of the dispute over the case of the Christian minorities in the difficulty of interpreting the right of asylum. The BAFI’s competences enabled the Federal Office to act as an independent powerful player.

3.4. The federal cooperation negotiating an alternative right to stay

The federal state level is represented in communication and interactions between federal states and other actors, mainly the BMI, and within federal states. Additionally, interactions on the third level, referring to the coordination level of the federal states, are considered.

³⁹¹ BA, BMI, B 106-90288, BAFI an VG Hamburg, 17-10-1983.

³⁹² “Verbände, Gruppen und Einzelpersonen, die sich in besonderem Maße bisher mit der Problematik befasst hatten”, BA, BMI, B 106-90287, BAFI an Bundesinnenministerium, 29-06-1982.

³⁹³ Such as specific court decisions, reports from the Swedish Ministry of Foreign Affairs, from the West German ambassador in Turkey, the Turkish UNHCR, and from an assigned lawyer as well as statements from clerical leaders in Turkey, BA, BMI, B 106-90287, BAFI an Bundesinnenministerium, 29-06-1982; BA, BMI, B 106-90287, BAFI an Bundesinnenministerium, 11-08-1982.

³⁹⁴ “um den zu erwartenden Protest der Verbände auf möglich kurze Zeit zu konzentrieren”, BA, BMI, B 106-90287, BAFI an Bundesinnenministerium, 11-08-1982.

On a “purely” federal state level 42 documents are preserved from 1980-1985, whereby most deal with the years from 1983 to 1985³⁹⁵. 31 documents were considered analysing the role of the third level in the case of Christian asylum seekers from Turkey. There were not many letters with a specific sender addressing a particular receiver. Rather a lot of resolutions of various conferences and working groups are preserved which demonstrate the frames and themes discussed in the negotiation process as well as the relational dimension. The difficulty to find out whether the resolutions and suggested solutions were put in place or if these were only drafts was even more prevalent in this pool of sources.

Table 7. *Communication at the federal level*

| Actors | Number of documents exchanged |
|---|-------------------------------|
| BMI and federal states | 19 |
| BMI and IMK | 4 |
| Regional authorities and federal states | 10 |
| BAFI and federal states | 1 |
| Between federal states | 4 |
| IMK and MPK | 2 |
| Other documents, indirectly representing a relational dimension within the federal states | |
| Internal communication and notations within a federal state | 4 |
| Written enquiries to federal state governments | 4 |
| Documents of the third level: working groups and conferences | |
| Resolution ARB | 7 |
| Reports and hand-outs Working Group Refugees from the Eastern Block | 4 |
| Working Group Hardship Regulation | 5 |
| Resolution IMK | 3 |
| Resolution MPK | 2 |
| Resolution Conference Chancellor and Minster-Presidents | 4 |

Discussing asylum affairs and framing the asylum seekers

Looking at the topics and frames that are detectable in the sources of the federal level, it becomes apparent that since 1983 the federal states were increasingly debating the meaning of court decisions, deportation bans, and what was going on the third level. All of these were

³⁹⁵ 1980 (2), 1981 (7), 1982 (1), 1983 (10), 1984 (10), 1985 (12).

closely linked, because the deportation bans were first passed in dependence to expected decisions from the courts³⁹⁶ and later justified with the ongoing negotiation process at the third level about an alternative option to stay³⁹⁷. Other observable topics in the sources were questions dealing with the asylum procedure³⁹⁸ and references to the negotiation process mentioning several possible solutions for an alternative right to stay³⁹⁹.

Two opposing frames appeared in the sources of the federal state level and the third level. On the one hand, in almost every document, there were warnings to “open the flood-gates to a disorderly immigration”⁴⁰⁰ because an alternative right to stay would cause “unwanted” pull and precedent effects as well as family reunification⁴⁰¹. These well-known threat frames which were manifested in the flood metaphor that was widely used in the European public as well as amongst politicians⁴⁰² stressed the unwantedness of the increase of Turkish asylum seekers⁴⁰³. This worst-case scenario of uncontrollably entering Christian asylum seekers from Turkey “was proven in the weave of inflow in Gronau, Nordrhein-Westfalen” in autumn 1984⁴⁰⁴. This incident became a political issue with foreign affairs trying to negotiate with Belgium to stop the onward migration and within interior affairs working towards fairly distributing the asylum seekers⁴⁰⁵. Surprisingly, the incident did not prevent a political solution. The threat frames were embedded in the negotiation process of an alternative right to stay. Here, possible solutions, criteria and consequences were discussed always keeping in mind estimated numbers of affected people which indirectly fed

³⁹⁶ Answers from the government of Baden-Württemberg to written requests, BA, BMI, B 106-90287, Antrag auf Abschiebestopp für armenische Christen der FDP Fraktion, 31-03-1983; BA, BMI, B 106-90288, Anfrage zwecks armenischer Christen der FDP Fraktion, 10-08-1983; BA, BMI, B 106-90288, Anfrage Auswirkungen des BVerwG der CDU, 20-10-1983.

³⁹⁷ Answers from the federal government of Baden-Württemberg to written requests, BA, BMI, B 106-101022, Kleine Anfrage zu armenischen Christen der SPD, 31-10-1984.

³⁹⁸ BA, BMI, B 106-90286, Bundesinnenministerium an Staatsminister Bayern, 12-03-1981.

³⁹⁹ BA, BMI, B 106-90289, Bundesinnenministerium an alle Innenminister der Länder, 10-02-1984.

⁴⁰⁰ “ungeordnetem Nachzug Tür und Tor geöffnet”, BA, BMI, B 106-90289, ARB, 14-03/15-03-1984.

⁴⁰¹ BA, BMI, B 106-90287, ARB, 04-11/05-11-1982; BA, BMI, B 106-90289, ARB, 29-11/01-12-1983; BA, BMI, B 106-117730, IMK Beschluß, 12-01-1984; BA, BMI, B 106-90289, ARB, 14-03/15-03-1984; BA, BMI, B 106-90289, Referat V II 3 an IMK, 11-05-1984; BA, BMI, B 106-101022, Senator für Inneres Hamburg an Referat V II 3, Staatsminister Bayern, Innenminister Niedersachsen (Arbeitsgruppe Härtefallregelung), 19-06-1985.

⁴⁰² Walaardt, ‘From heroes to vulnerable victims’, 1213; Jung, Niehr and Böke, *Ausländer und Migranten*, 131f.

⁴⁰³ E.g. BA, BMI, B 106-90287, Innenministerium Niedersachsen Vermerk Gespräch, 04-03-1983; BA, BMI, B 106-90286, Staatsminister Bayern an Bundesinnenministerium, 18-12-1980; BA, BMI, B 106-90286, Staatsminister Bayern an BAFI, 08-01-1981.

⁴⁰⁴ “das beweist die Einreisewelle nach Gronau, Nordrhein-Westfalen”, BA, BMI, B 106-117730, Innenminister Niedersachsen, Möcklinghoff, an Ministerpräsident Niedersachsen, 19-11-1984.

⁴⁰⁵ Many sources depict this incident, inter alia BA, BMI, B 106-90290, Bundesinnenministerium Vermerk, 03-10-1984.

into the threat frames of inflowing Turkish citizens⁴⁰⁶. The fear frame of an uncontrollable influx was sometimes matched with the tight labour market situation⁴⁰⁷ and once with the legalist argument of asylum seekers rationally calculating their chances of being admitted, on the fact that rejections under the law of asylum often did not result in departures⁴⁰⁸.

On the other hand, the politicians in the conferences counter-framed these warning voices with the social class of the Christian asylum seekers from Turkey who had an “ability to integrate beyond average”⁴⁰⁹ and only aimed “to live as Christians amongst Christians”⁴¹⁰. Their situation was “explicitly recognis[ed ...]”⁴¹¹ since they were “exposed to severe discrimination practices” in a “growingly radicalised Islamic environment” in Turkey⁴¹², therefore clearly being distinguishable from bogus asylum seekers⁴¹³. This frame shows the growing scepticism of the political realm regarding the Turkish democratic development⁴¹⁴. Additionally, here economic rationales gained importance by emphasising the integration aspect which underlined the asylum seekers’ utility for the West German society. According to Doreen Müller, utility has been a central paradigm in immigration policies combined with ethno-cultural rationales which constitute the homogenous membership⁴¹⁵. Both factors determined whether a group deserved access to the social community and the welfare state⁴¹⁶.

⁴⁰⁶ Numbers of possibly affected Christian asylum seekers from Turkey in West Germany, as well as estimations of Christian minorities still living in Turkey were frequently used in the negotiations on the third level, BA, BMI, B 106-90289, Referat V II 3 an IMK, 11-05-1984; BA, BMI, B 106-90290, Vorsitzender der IMK an den Vorsitzenden der MPK, 03-07-1984; BA, BMI, B 106-117730, Referat V II 3 Tischvorlage Sitzung Länderarbeitsgruppe “Ostblockflüchtlinge/Asyl”, 22-01-1985.

⁴⁰⁷ BA, BMI, B 106-90289, ARB, 14-03/15-03-1984; BA, BMI, B 106-90289, Referat V II 3 an IMK, 11-05-1984.

⁴⁰⁸ BA, BMI, B 106-117730, Referat V II 3 Tischvorlage Sitzung Länderarbeitsgruppe “Ostblockflüchtlinge/Asyl”, 22-01-1985.

⁴⁰⁹ “überdurchschnittliche Integrationsfähigkeit”, BA, BMI, B 106-90287, ARB, 04-11/05-11-1982; See also BA, BMI, B 106-90289, ARB, 14-03/15-03-1984; BA, BMI, B 106-90289, Referat V II 3 an IMK, 11-05-1984.

⁴¹⁰ “Als Christen unter Christen leben”, BA, BMI, B 106-117730, Beschlußvorschlag MPK, 19-12-1984.

This very specific term first occurred in a correspondence between the interior minister of Niedersachsen Möcklinghoff with the minister president of Niedersachsen, BA, BMI, B 106-117730, Innenminister Niedersachsen, Möcklinghoff, an Ministerpräsident Niedersachsen, 19-11-1984. I assume this relates to a historical frame justifying emigration/immigration of Christians from a hostile environment.

⁴¹¹ “ausdrückliche Anerkennung der besonderen Situation dieser Volksgruppe” BA, BMI, B 106-117730, Beschlußvorschlag MPK, 19-12-1984.

⁴¹² “daß sie als kulturelle und religiöse Minderheit in der Türkei rechtlich nicht anerkannt würden und schweren Diskriminierungen ausgesetzt seien [...] immer radikaler islamisierenden Umgebung”, BA, BMI, B 106-90289, ARB, 29-11/01-12-1983; See also, BA, BMI, B 106-90287, ARB, 04-11/05-11-1982; BA, BMI, B 106-90289, ARB, 14-03/15-03-1984; BA, BMI, B 106-90290, Vorsitzender der IMK an den Vorsitzenden der MPK, 03-07-1984.

⁴¹³ BA, BMI, B 106-90289, ARB, 14-03/15-03-1984.

⁴¹⁴ The opposition contributed to a polarisation of Turkish policies in the Federal Parliament after the change of government in 1982. Yet, since most federal states were governed by the CDU/CSU (the ruling party), I do not assume that this polarisation was prevalent on the third level, Szatkowski, *Die Bundesrepublik Deutschland*, 141; Weick, *Die schwierige Balance*, 204-237.

⁴¹⁵ Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 144-146, 214-216.

⁴¹⁶ So called “welfare chauvinism”, Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 208f.

So, the policymakers constructed the social class of the Christian asylum seekers from Turkey along these lines of argumentation whereby their case gained the singularity and uniqueness needed to find a political solution. Based on these characteristics, a political solution had to avoid unfair treatment of members of this homogenous group of people⁴¹⁷ as well as could not disappoint the groups' legitimate expectation of an alternative right to stay which had been nurtured through the authorities' deportation bans⁴¹⁸. As a result, the Conference of Minister-Presidents (MPK)⁴¹⁹ and "the majority of federal states recommend[ed] a generous solution [...]"⁴²⁰, therefore the decided hardship regulation was "in opposition to the common use of the term [...] a generous regulation"⁴²¹.

Interestingly, the politicians in almost all resolutions and protocols from the third level conferences used and combined these two counter-frames. They highlight the dispute over the case of the Turkish applicants from two angles. First, the group could only gain overwhelming support within the federal cooperation due to the positive construction of their social class emphasising their integration capabilities, thus economic utility, as well as their shared religion, thus religious-cultural affinity. Secondly, this construction represents a struggle over interpreting social reality which was clearly mirrored in the clashing material interests focusing on public order and security, and immaterial interests based on the idea of moral responsibility towards refugees and especially these Christian "brothers and sisters"⁴²². The conflict between these material and immaterial interests symbolised the liberal paradox at stake.

The federal interplay between informing, cooperating and deciding

In the following the relationship between the federal states and the BMI as well as the relational dimension of the third level is looked into. The latter is distinguished between the three major conferences, the role of the BMI and the relations with the judiciary and refugee support groups.

⁴¹⁷ BA, BMI, B 106-90289, Bundesinnenministerium an Vorsitzenden der IMK, 23-05-1984; BA, BMI, B 106-117730, ARB, 18-04/19-04-1985.

⁴¹⁸ BA, BMI, B 106-117730, Beschlußvorschlag MPK, 19-12-1984.

⁴¹⁹ BA, BMI, B 106-90288, vorläufiges Ergebnisprotokoll MPK, 19-10/21-10-1983.

⁴²⁰ "wird von der überwiegenden Mehrheit der Länder eine großzügigere Lösung empfohlen, die es christlichen Türken, die einen Asylantrag gestellt haben, ermöglichen sollte, im Bundesgebiet zu bleiben", BA, BMI, B 106-90289, ARB, 29-11/01-12-1983.

⁴²¹ "im Gegensatz zum sonst üblichen Wortgebrauch [...] eine großzügige Regelung", BA, BMI, B 106-101022, Senator für Inneres Hamburg an Referat V II 3, Staatsminister Bayern, Innenminister Niedersachsen (Arbeitsgruppe Härtefallregelung), 19-06-1985.

⁴²² Bonjour, 'The Power and Morals of Policy Makers', 115-117.

Looking at the relationship between the federal states and the BMI in these sources confirms the distribution of tasks in asylum matters. The federal states were in charge of the practical side of the asylum procedure⁴²³ whilst the government was responsible for the asylum procedure itself⁴²⁴. The communication between the BMI and the federal states displayed the BMI's nodal position in asylum policies. The federal states asked the ministry about the decision-making practice at BAFI⁴²⁵, the appeals of the Commissioner⁴²⁶ and for updates on the negotiation at the third level. Eventually, the BMI notified the federal interior ministers about the political solution agreed on in the meeting of the minister-presidents with the chancellor in March 1985⁴²⁷ which the states transferred into directives to the regional authorities⁴²⁸. Looking strictly at the relationship between the BMI and the federal states and blend out them being represented in the third level, a cooperative information relationship can be detected. Hereby, the federal states' dependency on judicial developments and policy making on the third level as well as the BMI's key role and coordinating function are stressed. In the case of the Christian asylum seekers from Turkey, this relationship was not as conflictual as the different competences might have suggested with the federal states fighting for reducing their economic burden of providing for asylum seekers⁴²⁹. This only quite latent conflict cannot be explained with the source selection since they represent the platforms of federal decision-making where such concerns were expressed. However, it confirms the hypothesis, that due to the positive construction of social class of the Christian minorities they received support from the federal state level.

Examining the third level, we can assert that the federal states were amongst each other in a mutual coordinating relationship which they stabilised through meeting in horizontal conferences, forming a legitimation relationship with these forums. Their minister-presidents were authorised to participate in the superordinate MPK, being majorly concerned

⁴²³ Schneider, *Modernes Regieren und Konsens*, 142; E.g. issuing deportation bans, see directive from the ministry of the interior Niedersachsen to the regional authorities, BA, BMI, B 109-90287, Erlass an Ausländerbehörden, 25-01-1983.

⁴²⁴ Schneider, *Modernes Regieren und Konsens*, 142.

⁴²⁵ BA, BMI, B 106-90286, Bundesinnenministerium an Staatsminister Bayern, 12-03-1981.

⁴²⁶ E.g. BA, BMI, B 106-90289, Bundesinnenministerium u.a. an die Innenminister der Länder, 23-11-1983.

⁴²⁷ BA, BMI, B 106-101022, Senator für Inneres Bremen an Bundesinnenministerium und an Innenminister der Länder, 28-03-1985.

⁴²⁸ BA, BMI, B106-101023, Bayern: Ausländer- und Asylrecht, 05-12-1985; BA, BMI, B106-101023, Bremen: Erlaß, 26-11-1985; BA, BMI, B106-101023, Hamburg: Weisung Nr. 3/85, 25-11-1985; BA, BMI, B106-101023, Hessen: Verfahrensgrundsätze, 23-12-1985; BA, BMI, B106-101023, Niedersachsen: Asylanträge türkischer Staatsangehöriger christlichen Glaubens, 16-12-1985; BA, BMI, B106-101023, Nordrhein-Westfalen: Verfahrensgrundsätze, 18-12-1985; BA, BMI, B106-101023, Rheinland-Pfalz: Asylanträge türkischer Staatsangehöriger christlichen Glaubens, 09-12-1985; BA, BMI, B106-101023, Schleswig-Holstein: Verfahrensgrundsätze, 10-12-1985.

⁴²⁹ The literature speaks of a "competition for deterrence" amongst the federal states in the early 1980s, Münch, *Asylpolitik in der Bundesrepublik*, 138-142.

with federal state interests⁴³⁰, meeting regularly with the chancellor and deciding in unanimity on “binding political recommendations”⁴³¹. So, when they decided on a generous alternative right to stay it was binding to all other federal actors and conferences⁴³² who negotiated how to put it into practice⁴³³. This solution must have been problematic because eventually a hardship regulation was decided upon in a meeting with the chancellor⁴³⁴. We can only speculate whether it was the government pushing for a more restrictive (sounding) solution or the states themselves. Still, it clearly shows the struggle over finding a consensus in asylum policies⁴³⁵ as well as the liberal paradox in the case of the Christian asylum seekers from Turkey.

The role of the Conference of Interior Ministers (IMK) was to translate the binding recommendations of the MPK into policies. Therefore, being in an unofficial directive relationship to the MPK. When the MPK passed the guideline to draft a generous alternative right to stay, the IMK transferred the task to other working groups⁴³⁶, most importantly the ‘meeting of authorised experts in matters concerning foreigners’ (ARB)⁴³⁷. The results of these groups were decided upon in the IMK which transferred the solution to the MPK that had to pass the final regulation⁴³⁸. In this negotiation process the IMK took a rather coordinating function in finding a consensus without actually proposing or initiating the policy. That is quite surprising given that the IMK was a central decision-maker in compiling and

⁴³⁰ Hegele and Behnke, ‘Die Landesministerkonferenzen und der Bund’, 25.

⁴³¹ Ibid., 22; ‘Die Ministerpräsidentenkonferenz’, *Der Regierende Bürgermeister Senatskanzlei*.

⁴³² BA, BMI, B 106-90288, vorläufiges Ergebnisprotokoll MPK, 19-10/21-10-1983; BA, BMI, B 106-117730, Beschluß Vorberatung der Regierungschefs der Länder, 19-12-1984.

⁴³³ BA, BMI, B 106-90290, Vorsitzender der IMK an den Vorsitzenden der MPK, 03-07-1984.

⁴³⁴ BA, BMI, B 106-117730, ARB, 18-04/19-04-1985. Already in December 1984 a document from the pre-meeting with the chancellor and minister-presidents suggests that the regulation was agreed on, BA, BMI, B 106-117730, Beschluß Vorberatung der Regierungschefs der Länder, 19-12-1984. However, there is a proposal solution preserved from the MPK, voting for a quota system, BA, BMI, B 106-117730, Beschlußvorschlag MPK, 19-12-1984. The latter document might have never been agreed on, since later sources do not refer to this proposed solution.

⁴³⁵ Schneider, *Modernes Regieren und Konsens*, 66.

⁴³⁶ There were several working groups negotiating a political solution, also appointed by the meeting between the chancellor and the minister-presidents. For example, the working group “refugees from the Eastern Block and asylum” which could not decide on any recommendation, BA, BMI, B 106-117730, Entwurf Bericht der vorbereitenden Bund-Länderarbeitsgruppe “Ostblockflüchtlinge/Asyl”, 30-01-1985; BA, BMI, B 106-117730, ARB, 18-04/19-04-1985.

⁴³⁷ BA, BMI, B 106-117730, Beschlußvorschlag MPK, 19-12-1984; BA, BMI, B 106-101022, Vorsitzender der MPK an den Vorsitzenden der IMK, 12-03-1985. The IMK had also initiated a State Secretary Commission to work on a draft for an alternative right to stay, BA, BMI, B 106-117730, Entwurf Bericht der vorbereitenden Bund-Länderarbeitsgruppe “Ostblockflüchtlinge/Asyl”, 30-01-1985.

⁴³⁸ BA, BMI, B 106-90290, Beschlußniederschrift IMK, 13-06-1984.

proposing migration policies that were to be implemented on a federal state and local level⁴³⁹.

The ARB represented the task force in this policy-making process because here the experts of all federal states shared their practices and experience⁴⁴⁰ and discussed possible solutions. Since communication went through the IMK⁴⁴¹, the group acted on demand of the IMK⁴⁴², apparently being in informal directive relationship, and having to conform with the recommendations from the MPK⁴⁴³. First, the participants' interests conflicted in finding a political solution, so they referred the problem to the highest federal coordination level, the MPK, to decide upon because of its "political relevance"⁴⁴⁴. After the MPK's decision most participants of the ARB opted for a generous right to stay in the form of a key date regulation⁴⁴⁵. The triangular relationship between MPK, IMK and ARB shows the consensus-driven nature of decision-making processes, whereby not the IMK was central but the MPK and the ARB. Despite the ARB's structurally lower power position within the third level interplay, they powerfully finalised the alternative right to stay. They transformed the hardship regulation into an indirect key date regulation which was thought to be in line with the MPK decision⁴⁴⁶. As such, the group succeeded in getting through a slightly changed version of their policy recommendation from 1983, revealing their political meaning in implementing migration policies in their exclusive meetings⁴⁴⁷. This decision-making process correlates with Walaardt's findings about the impracticability of too strict asylum policies⁴⁴⁸. Here, the officials did not silently give-in, but silently realised the politically problematic, generous humanitarian solution.

Looking at the role of the BMI in the federal cooperation its coordinating and mediating function is confirmed⁴⁴⁹. In the IMK the ministry had an active part beyond the minister's official consultation role⁴⁵⁰, since it coordinated the communication and information

⁴³⁹ Until the 1970s the IMK was the central decision-maker in contrast to government and parliament, Schneider, *Modernes Regieren und Konsens*, 121, 141, 162, 368; Münch, 'Asylpolitik – Akteure, Interessen, Strategien', 75.

⁴⁴⁰ BA, BMI, B 106-90287, ARB, 04-11/05-11-1982.

⁴⁴¹ E.g. BA, BMI, B 106-117730, Referat V II 3 Beschlußvorschlag an IMK und Innenminister der Länder, 14-12-1983.

⁴⁴² E.g. BA, BMI, B 106-117730, IMK Beschluß, 12-01-1984.

⁴⁴³ Inter alia, BA, BMI, B 106-117730, ARB, 18-04/19-04-1985.

⁴⁴⁴ BA, BMI, B 106-90288, ARB, 04-05/05-05-1983.

⁴⁴⁵ BA, BMI, B 106-90289, ARB, 29-11/01-12-1983.

⁴⁴⁶ BA, BMI, B 106-117730, ARB, 18-04/19-04-1985.

⁴⁴⁷ 'Drucksache 18/2754', *Deutscher Bundestag: 18. Wahlperiode*. 8 October 2014, <http://dipbt.bundestag.de/doc/btd/18/027/1802754.pdf> (23-05-2019).

⁴⁴⁸ Walaardt, *Geruisloos inwilligen*, 179-181, 310, 322-327.

⁴⁴⁹ Hegele and Behnke, 'Die Landesministerkonferenzen und der Bund', 45f.

⁴⁵⁰ Schneider, *Modernes Regieren und Konsens*, 121.

flow between working groups, interior ministers and the heads of the IMK and MPK conferences as well as taking over tasks such as drafting resolutions for the IMK⁴⁵¹. Also in the ARB, the BMI actively participated, always briefing the participants at the beginning of each meeting and informing them about their assigned tasks through other meetings or conferences. As such, the federal cooperation represented a mixed vertical-horizontal interplay, with the BMI being a mediator trying to achieve a consensus⁴⁵². However, it seems like it was rather in the interest of the federal cooperation to implement a generous solution (e.g. the BMI's draft of the hardship regulation was widened by the participating states), which they succeeded in doing so under the smokescreen of the hardship-phrasing. Analysing the sources from the third level it seems like the BMI did not pursue its own, often security driven, interests⁴⁵³, but purely coordinated the decision-making process in the federal cooperation⁴⁵⁴. However, the intra-ministerial sources suggest that the BMI gently influenced the negotiation process. Thus, the hardship regulation can be viewed as an ideal solution from the ministry's perspective since the government's security and foreign interests were considered in using a restrictive language, yet the third level could interpret it according to their own federal interests.

Throughout the whole negotiation process, two external actors played a role in the sources contributing to the plurality of players and arguments. First, the judiciary was very important and when the Federal Administrative Court's decision did not bring about "a fundamental clarification which was hoped for in vain"⁴⁵⁵, the policymakers had to find a political solution on their own⁴⁵⁶. Again, the judiciary's guiding role in asylum politics is revealed which was expected and almost demanded by the policymakers, resembling the self-limited sovereignty. Secondly, the refugees support groups' engagement was mentioned several times. Some federal states catapulted their pressure and appeals to the national level, by informing the BMI about meetings and requests⁴⁵⁷. Since the execution of the alien law laid with the federal states, the pressure groups kept on successfully⁴⁵⁸ pushing for deportation

⁴⁵¹ BA, BMI, B 106-117730, Referat V II 3 Beschlußvorschlag an IMK und Innenminister der Länder, 14-12-1983.

⁴⁵² Hegele and Behnke, 'Die Landesministerkonferenzen und der Bund', 45.

⁴⁵³ Schneider, *Modernes Regieren und Konsens*, 121, 176.

⁴⁵⁴ Hegele and Behnke concluded similarly in their research on the horizontal and vertical interplay within federal conferences, Hegele and Behnke, 'Die Landesministerkonferenzen und der Bund', 45.

⁴⁵⁵ "allerdings vergeblich erhoffte grundsätzliche Klärung", BA, BMI, B 106-117730, Beschlußvorschlag MPK, 19-12-1984.

⁴⁵⁶ BA, BMI, B 106-90290, Vorsitzender der IMK an den Vorsitzenden der MPK, 03-07-1984.

⁴⁵⁷ E.g. BA, BMI, B 106-90287, Innenministerium Niedersachsen Vermerk Gespräch, 04-03-1983; BA, BMI, B 106-90287, Niedersachsen an Bundesinnenministerium, 07-03-1983; BA, BMI, B 106-90287, ARB, 04-11/05-11-1982.

⁴⁵⁸ BA, BMI, B 106-90288, ARB, 04-05/05-05-1983; BA, BMI, B 106-90286, Innenminister Rheinland-Pfalz an Bundesinnenminister und Innenminister der Länder, 29-01-1981.

bans⁴⁵⁹. It was the invitation of the Diakonisches Werk which catalysed the negotiations at the third level in autumn 1982⁴⁶⁰, thus politicians were aware that the political solution had “to redeem the hopes, that the authorities (including the ministries) and the administrative courts” generated in asylum seekers, churches and humanitarian organisations⁴⁶¹. This confirms the successful lobby relationship established by the refugee supporters and the client politics in immigration politics. Although their arguments were considered because they matched with the federal cooperation who agreed that the Christian asylum seekers should not be returned, the relationship was conflictual⁴⁶². Additionally, the churches attenuated fears regarding pull effects because they did not “have an interest [...] that Christian churches in Turkey would shrink through constant emigration into the Federal Republic of Germany”⁴⁶³.

The relational dimension of the federal cooperation discloses the political need to find consensus in the Federal Republic without receiving guidance from the judiciary but being exposed to the liberal paradox. The BMI’s central role was to coordinate consensus on the federal state and national level, meaning that governmental and federal state interests had to be (superficially) harmonised. The lobby relationship with the refugee support groups was by its nature conflictual, yet successful because there was a political and societal consensus on the positive construction of the Christian asylum seekers’ social class.

4. Conclusion

This paper adds to the scholarly debate on the making of asylum policies in the German context, comprehensively analysing sources that depict the most important intergovernmental, federal and societal players negotiating the admission of a specific group of asylum seekers. The micro-study of the case of the Christian asylum seekers from Turkey has revealed central dynamics of asylum politics as manifested in the multi-level interplay from the perspective of the Federal Ministry of the Interior. Taking a perspective that focusses on the

⁴⁵⁹ For example, the Katholisches Büro Bonn approached several federal states, BA, BMI, B 106-90286, Vermerk Gespräch Innenministerium Rheinland-Pfalz, 19-12-1980.

⁴⁶⁰ After the invitation of the Diakonisches Werk in October 1982, the ARB started discussing the case, BA, BMI, B 106-90287, ARB, 04-11/05-11-1982.

⁴⁶¹ “Hoffnungen einzulösen, die Behörden (einschließlich der Ministerien) und der Verwaltungsgerichte”, BA, BMI, B 106-117730, Innenminister Niedersachsen, Möcklinghoff, an Ministerpräsident Niedersachsen, 19-11-1984.

⁴⁶² E.g. Bavaria strongly opposed the catholic church, stating that the “clerical statements [were] not being very helpful”, BA, BMI, B 106-90288, Staatskanzlei Bayern an das Zentralkomitee der deutschen Katholiken, 15-07-1983.

⁴⁶³ “kein Interesse [...], dass] christliche Gemeinden in der Türkei sich durch ständige Abwanderung in die BRD immer sehr verringern”, BA, BMI, B 106-117730, Beschlußvorschlag MPK, 19-12-1984.

relational dimension of governance in asylum policies⁴⁶⁴, the various interactions disclosed the contention of their case, including the distribution of power and competences between different actors, clashing material and immaterial interests and the socially constructed nature of the problem⁴⁶⁵. Looking at the BMI being at the centre of the research, the ministry coordinated and balanced the interests prevalent in the interplay between the societal, inter-governmental and federal level⁴⁶⁶. Thus, the thesis contributes to a clearer picture on the ministry's role in asylum politics, and fills the gap in the literature, which simplifies its role as being foremost guided by safety interests⁴⁶⁷. Furthermore, the intergovernmental relationships have confirmed the influence of international relations in asylum policies⁴⁶⁸. On the one hand, assessing asylum requests were based on reports from the Federal Ministry of Foreign Affairs that clearly evaluated the situation in Turkey in line with diplomatic concerns. On the other hand, the paper disclosed the evolving inter-European cooperation in communicating the case of the Christian asylum seekers and a possible right to stay. Being one of the first who analyses the historical role of the BAFI, this paper has revealed the Federal Office's powerful position in interpreting the vague right of asylum in its decision-making according to its own legal understanding. However, the Federal Office's position was challenged which the conflictual relationships with the BMI, the judiciary and refugee support groups have shown. Thus, the BAFI needed to enforce its legitimised expert authority.

The analysis of the successfully maintained lobby relationships of the refugee support groups in times of rising public xenophobia especially targeting Turkish migrants, contributes to the literature on the influence of civil society in asylum policies. In opposition to the findings in this work, their influence has so far mostly been described as marginal⁴⁶⁹. Here, their impactful client politics⁴⁷⁰ on the highest political levels of decision-making have been visible. This correlates with the effective strategies of the Dutch civil society pressuring civil servants in individual asylum cases in the Netherlands⁴⁷¹. In the West German context, the refugee support groups gained ground because of the generous, yet vaguely phrased right of asylum. Since the asylum law was open to varying interpretations, they could place

⁴⁶⁴ Williamson, *The networks of John Jay*, 18.

⁴⁶⁵ Bonjour, 'The Power and Morals of Policy Makers', 115-117.

⁴⁶⁶ Machura, 'Ministerialbürokratie'.

⁴⁶⁷ Münch, 'Asylpolitik – Akteure, Interessen, Strategien', 75.

⁴⁶⁸ Münch, *Asylpolitik in der Bundesrepublik*, 188-192; Szatkowski, *Die Bundesrepublik Deutschland*, 31, 65, 112, 116.

⁴⁶⁹ Schneider, *Modernes Regieren und Konsens*, 90, 129, 151; Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 213.

⁴⁷⁰ Freeman (1995) in Bonjour, 'The Power and Morals of Policy Makers', 93.

⁴⁷¹ Walaardt, *Geruisloos inwilligen*, 325-328; Walaardt, 'From heroes to vulnerable victims', 1214.

arguments that highlighted the social class of the Christian asylum seekers with whom the West German public could easily resonate. Their frames dripped with morality that accelerated the liberal paradox which the BMI had to manage. Although the frames and arguments of the refugee support groups contradicted with the Federal Ministry of Foreign Affairs, the German embassies, the BAFI and some of the federal states, they successfully performed client politics. With the help of their network they became “a very influential lobby [...], which [has not been on the side of] other minorities, such as the Kurdish Yezidi”⁴⁷². Hence, the Christian asylum seekers received outstanding support of influential parts of civil society which was able to reach out to the highest political levels.

Adding the federal cooperation to the analysis of the multi-level interplay in asylum politics broadens our understanding of the complex vertical-horizontal relationships between the national government, the federal states and civil society. Hereby, the paper confirms the findings from Hegele and Behnke, who assess that the conferences are not purely federal forums of coordination⁴⁷³. On the third level, an intense cooperation between the federal states and the government was needed to negotiate an alternative right to stay for the Christian minorities. While the literature normally only highlights the key role of the IMK in passing asylum policies⁴⁷⁴, in this work a more detailed perspective on the interplay between the IMK, MPK and ARB was gained. Thereby, the ARB evolved as crucial player in translating the political decisions into practice according to the MPK’s and their own (liberal) understanding how the hardship regulation should look like. Looking at the negotiation process itself, it became clear, that the federal level had to find a political solution for the rejected Christian asylum seekers from Turkey for two major reasons. First, the legal dispute over granting asylum was neither solved by the BAFI nor the judiciary. Hence, jurisprudence did not contain clear messages that could be “used as a resource in policy struggles”⁴⁷⁵. Secondly, because of the pressure of the refugee support groups a political solution became inevitable⁴⁷⁶ and the federal struggle for reaching a consensus began. In the negotiations, pull and precedent frames clashed with claims positively framing the social class of the

⁴⁷² “daß die syrisch-orthodoxen Christen in der Bundesrepublik Deutschland auf eine sehr einflußreiche Lobby gestoßen sind, die andere Minderheiten, wie z.B. den yezidischen Kurden, die als Minderheit nach meinen Erfahrungen nicht geringeren Drangsalierungen ausgesetzt sind, nicht zur Seite steht.” BA, BMI, B 106-90289, Auswertung der Aussagen in den dem Bundesamt vorliegenden Akten und Anhörungsniederschriften zum Wehrdienst – Erfahrungen wie oft eigene, fremde, keine negativen Angaben gemacht werden, n.d.

⁴⁷³ Hegele and Behnke, ‘Die Landesministerkonferenzen und der Bund’, 45.

⁴⁷⁴ Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 146; Schneider, *Modernes Regieren und Konsens*, 121, 141.

⁴⁷⁵ Bonjour, ‘Speaking of Rights’, 328.

⁴⁷⁶ BA, BMI, B 106-90287, ARB, 04-11/05-11-1982.

asylum seekers and stressing the legal expectations of the asylum seekers and their support groups. This perfectly represents the nation-state's struggle to control membership and immigration while following humanitarian, legal and moral obligations and values⁴⁷⁷. Similarly to the Dutch civil servants, the German policy makers on the third level tried to solve the liberal paradox by framing the uniqueness of the case of the Christian asylum seekers⁴⁷⁸. They particularly emphasised their mutual religion and the groups' utility for the West German society. Hence, the positive construction of their case in combination with the controversial situation in Turkey after the military coup, paved a way for an alternative right of residence. Yet, the liberal paradox was only solved with a linguistic trick that hid the humanitarian generosity behind a restrictively framed regulation. Therefore, this analysis confirms that "[i]n the 'semi-sovereign' political system of the Federal Republic power is dispersed to different institutions and actors, thus everything depends on their interplay."⁴⁷⁹

Looking at the methodological approach and the set of sources of this work, both have been extremely useful in analysing the micro-case. Reflecting on the methods, a systematic yet static analytical structure evolved whereby the dispute over the admission of the Christian minorities from Turkey was not chronologically depicted. Instead, frames were extracted and defined as well as relationships determined and applied. Systematically analysing the sources has revealed the central dynamics of asylum politics in this specific case. Choosing to analyse the sources of the Federal Ministry of the Interior has steered the angle of this research in a particular direction. Since the ministry's sub-division V II 3 was responsible for the case of the Christian asylum seekers from Turkey, it is primarily their coordinating function which the sources depict. Therefore, several other societal, governmental and federal concerns were not as visible in the interactions, e.g. reciprocity struggles, austerity, international relations. Yet, these might have been important issues looking at other levels of governance in asylum and migration, such as migrant communities, the judiciary, further political players at the national and federal state level, as well as the media. Future research that builds on the insights gained on the dynamics of asylum politics in this work could look into the roles of the Federal Council and the Federal Parliament, the counties and municipalities, the media's influence⁴⁸⁰, the (shifting) power position of refugee support

⁴⁷⁷ Joppke, 'Why Liberal States Accept Unwanted Immigration', 283f.; Joppke, 'Asylum and State Sovereignty', 260, 273; Cornelius, Martin and Hollifield, 'Introduction', 9-11.

⁴⁷⁸ Walaardt, *Geruisloos inwilligen*, 326, 328.

⁴⁷⁹ "Doch im "semisouveränen" politischen System der Bundesrepublik (Katzenstein 1987) kommt es aufgrund der Verteilung der Macht auf verschiedene Institutionen und AkteurInnen schließlich auf das Zusammenspiel an." Müller, *Flucht und Asyl in europäischen Migrationsregimen*, 212.

⁴⁸⁰ *Ibid.*, 149f.; Schrover and Walaardt, 'influence of the media on politics and practices', 22-26.

groups and the agency of migrant organisations. Furthermore, the highly valued legal authority of the judiciary in asylum politics, as revealed in this paper, could be expanded through looking into how jurisprudence has shaped the social construction of reality⁴⁸¹.

In conclusion, the four main hypotheses (the liberal paradox, vague asylum law, social class and plurality of actors) and the theory about international relations, explaining the gap between strict immigration policies and liberal admission of migrants have been detectable in the multi-level interplay in the case of the Christian minorities from Turkey. These five hypotheses emerge in a unique, complex and intertwining combination. The gap between rejecting the Christian asylum seekers under the asylum law yet facilitating an alternative right to stay originated from the difficulty in interpreting the vague right of asylum⁴⁸² in combination with the self-limiting sovereignty of the Federal Republic as defined in the liberal paradox⁴⁸³. Due to the rule of law, competences have been distributed from the legislature to the judiciary and within the government, so that the courts and the BAFI evolved as powerful authorities. They could have solely decided upon the fate of the Christian asylum seekers. Yet, because of the difficulty in applying the generous right of asylum, the case of the asylum seekers was legally disputed. Hereby, room for multiple actors was opened up revealing the dynamics of migration and domestic policies based on different immaterial and material interests⁴⁸⁴. This is where the refugee support groups established their influence as a societal-moral authority. Because of their well-articulated and well-directed pressure, a political solution had to be followed up which was based on federal logics of decision-making processes. Consensus was achieved through constructing the uniqueness of the asylum seekers and restrictively phrasing a generously practicable hardship regulation. Hence the liberal paradox was solved. So the hypotheses under the umbrella of the gap theory combinedly explain the contention of the case of the Christian asylum seekers from Turkey. Here, the liberal paradox and the difficulty of interpreting the right of asylum, resulted in a plurality of actors who positively defined the social class of the asylum seekers so that consensus was possible to smartly settle the liberal paradox with a generously applied hardship regulation.

⁴⁸¹ Bonjour, 'Speaking of Rights', 330f.

⁴⁸² Poutrus, 'Asylum in Postwar Germany', 115.

⁴⁸³ Joppke, 'Why Liberal States Accept Unwanted Immigration', 283f.; Joppke, 'Asylum and State Sovereignty', 260, 273; Cornelius, Martin and Hollifield, 'Introduction', 9-11.

⁴⁸⁴ Bonjour, 'The Power and Morals of Policy Makers' 115-117; Bonjour, *Grens en gezin*, 324.

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